OXFORD ANALYTICA

SHAREHOLDER AND CREDITOR RIGHTS IN KEY EMERGING MARKETS 2003

A Study

Prepared For

CalPERS

Oxford Analytica Ltd
5 Alfred Street
Oxford OX1 4EH

SHAREHOLDER AND CREDITOR RIGHTS IN KEY EMERGING MARKETS 2003

CONTENTS

INTRODUCTION AND METHODOLOGY

This study surveys shareholder and creditor rights for 27 emerging market economies, using fifteen principles as benchmarks. Surveyed countries are: Argentina, Brazil, Chile, China, Colombia, Czech Republic, Egypt, Hungary, India, Indonesia, Israel, Jordan, Malaysia, Mexico, Morocco, Pakistan, Peru, The Philippines, Poland, Russian Federation, South Africa, South Korea, Sri Lanka, Taiwan, Thailand, Turkey, and Venezuela.

Under 'shareholder rights', the following principles are considered: one share-one vote; proxy by mail allowed; shares not blocked before meeting; cumulative voting/proportional representation; oppressed minority (judicial venue/obligatory share repurchase); pre-emptive right to new issues; percentage of share capital to call an ESM; and mandatory dividend. An index is then aggregated of all principles, except mandatory dividend, to give an overall score for a country's shareholder rights' record, with a "1" given when the country has investor protection in place for a certain principle, and a "0" when not. In addition, a 1 is given if 10% or fewer of share capital suffices to call an ESM. The shareholder rights index therefore ranges from 0 to 7. The results are compiled in Table 1: Shareholder Rights.

Under 'creditor rights', the following principles are considered: restrictions on going into reorganisation; no automatic stay on assets during reorganisation; secured creditors first paid; management replaced in reorganisation; and legal reserve. An index is then aggregated of all principles, to give an overall score for a country's creditor rights record, with a "1" given when the country has creditor rights protection in place for a certain principle, and a "0" when not. The creditor rights index therefore ranges from 0 to 5. The results are complied in Table 2: Creditor Rights.

The principles and methodology are adapted from La Porta, Lopez-de-Silanes, Shleifer, and Vishny, 'Law and Finance', NBER Working Paper 5661, Cambridge, Mass: National Bureau of Economics, July 1996.

Judgments were made by analysing countries' legislation, using official or commercial translations of the law(s) where available. In the Latin American countries and Morocco, legislation is cited in the original Spanish or French, while in all other countries in English from the original copy or translation. In addition, all the updated country reports were sent out to authorities, academics, in-country solicitor firms and Oxford Analytica's in-country contributors. Feedback was received and incorporated for a number of countries.

Assessments based on the principles are made with regard to the legal framework in place, but implementation of the laws has not been considered. Legislation is cited as in the original, retaining spelling and phrasing.

Two methodological assumptions were adopted: in the 'shares not blocked before meeting' principle, a 0 is given only when the law *requires* that shares be blocked, thus preventing shareholders from selling those shares for a number of days, not merely allows it. In the 'legal reserve' principle, in some countries more than one percentage of share capital is identified as a legal reserve, or there is a range, or a part of profits must be allocated to the reserve annually until a certain percentage of share capital is reached. In all cases, the highest number is recorded in the summary table. (In the case of Taiwan, this has led to a 100% legal reserve rating, because the law requires that 10% of profits be allocated to a reserve fund each year, until the fund amounts to the total authorised capital).

Table 1 : Shareholder rights

Country	One share – one vote	Proxy by mail allowed	Shares not blocked before meeting	Cumulative voting/proportional representation	Oppressed minority	Preemptive rights to new issues	% of share capital to call an ESM	Shareholder rights index	Mandatory dividend
Argentina	0	0	0	1	1	1	5%	4	0
Brazil	1	0	1	1	1	1	5%	6	25%/50%
Chile	1	0	1	1	1	1	10%	6	30%
China	1	0	1	0	1	0	10%	4	0
Colombia	0	0	1	0	1	1	20%	3	50%
Czech Republic	0	0	1	0	1	1	3/5%	4	0
Egypt	0	0	1	0	1	0	10%	3	0
Hungary	0	0	1	0	0	1	10%	3	0
India	1	0	1	1	1	1	10%	6	0
Indonesia	1	0	1	0	1	1	10%	5	0
Israel	0	1	1	0	1	0	5%	4	0
Jordan	1	0	1	0	1	0	15%/25%	3	0
Malaysia	1	0	1	0	1	1	10%	5	0
Mexico	1	0	1	1	1	1	10%	6	0
Morocco	1	0	1	0	1	1	na	4	0
Pakistan	0	0	1	1	1	1	10%	5	0
Peru	1	0	1	1	1	1	20%	5	0
Philippines	0	0	1	1	1	1	Open	5	0
Poland	1	0	1	1	1	1	10%	6	0
Russian Federation	1	0	1	1	1	1	10%	6	0
South Africa	0	1	1	0	1	1	5%	5	0
South Korea	1	1	1	1	1	1	3%	7	0
Sri Lanka	0	0	1	0	1	0	10%	3	0
Taiwan	1	0	1	1	1	1	3%	6	0
Thailand	1	0	1	1	1	0	20%/10%	4	0
Turkey	0	0	1	1	1	1	10%	5	0
Venezuela	0	0	0	0	1	0	20%	1	50%

In the above table a "1" means the shareholder right is in the law. 'Shareholder rights index' is the sum of the seven principles from 'one share-one vote' to '% of share capital to call an ESM', with the latter being given a 1 if the value is 10% or less.

Table 2 : Creditor rights

Country	Restrictions on going into reorganisation	No automatic stay on assets	Secured creditors first (paid)	Management replaced (in reorganisation)	Creditor rights index	Legal Reserve required as % of capital
Argentina	1	0	1	0	2	20%
Brazil	1	1	0	0	2	20%
Chile	1	1	0	0	2	0
China	1	0	1	0	2	50%
Colombia	1	0	1	0	2	50%
Czech Republic	0	0	0	0	0	20%
Egypt	na	1	0	na	1	50%
Hungary	1	0	0	0	1	na
India	1	1	1	0	3	0
Indonesia	1	1	1	1	4	20%
Israel	1	1	1	0	3	0
Jordan	na	na	0	na	0	25%
Malaysia	1	1	1	0	3	0
Mexico	1	0	0	0	1	20%
Morocco	0	1	1	1	3	0
Pakistan	1	1	1	0	3	0
Peru	1	0	0	1	2	20%
Philippines	1	0	0	0	1	0
Poland	0	0	0	0	0	33%
Russian Federation	1	0	0	0	1	5%
South Africa	1	0	1	1	3	0
South Korea	1	1	1	1	4	50%
Sri Lanka	1	1	0	0	2	0
Taiwan	1	0	1	1	3	100%
Thailand	1	0	1	1	3	10%
Turkey	1	0	0	0	1	33%
Venezuela	na	na	0	na	0	10%

In the above table a "1" in a column means that creditor protection is in the law. 'Creditor rights index' is the sum of the four principles. Na=not applicable.

Argentina – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The main law governing the securities market in Argentina is Company Law 19.550 (Ley de Sociedades Comerciales- 19.550). The Sociedad Anonima (S.A.) corresponds to a Partner Limited Company in which the corporate capital is divided into shares. The responsibility of the partners is limited to the contribution made or to be made to the company. Its principal agencies are the shareholders meeting -- which should meet at least once a year -- and the Board of Directors, composed of directors chosen by shareholders agreement.	
One share -one vote	**0**	**SUMMARY**	Article 216 states that each ordinary share gives the right to one vote, although the company bylaws can allow for different classes of ordinary shares with up to five votes per share.	
		Art. 207	Las acciones serán siempre de igual valor. Aun así, el estatuto puede prever diversas clases con derechos diferentes; otorgando los mismos derechos dentro de cada clase. Es nula toda disposición en contrario.	**Ley de Sociedades Comerciales 19.550**
		Art. 177	Cada suscriptor tiene derecho a tantos votos como acciones haya suscripto e integrado en la medida fijada. Las decisiones se adoptarán por la mayoría de los suscriptores presentes que representen no menos de la tercera parte del capital suscripto con derecho a voto, sin que pueda estipularse diversamente.	
		Art. 216	Cada acción ordinaria da derecho a un voto. El estatuto puede crear clases que reconozcan hasta cinco votos por acción ordinaria. (...)	
Proxy by Mail allowed	**0**	**SUMMARY**	Article 239, which states the proxy rights of shareholders, makes no reference to proxy by mail.	

		Art. 239	Actuación por mandatario Los accionistas pueden hacerse representar en las asambleas. No pueden ser mandatarios los directores, los síndicos, los integrantes del consejo de vigilancia, los gerentes y demás empleados de la sociedad.Es suficiente el otorgamiento del mandato en instrumento privado con la firma certificada en forma judicial, notarial o bancaria, salvo disposición en contrario del estatuto.	**Ley de Sociedades Comerciales 19.550**
Shares not blocked before meeting	**0**	**SUMMARY**	Article 238 requires shareholders to deposit their shares at least 3 working days prior to the date of each General Assembly or Extraordinary General Assembly. There is no requirement to block shares.	
		Art. 238	Depósito de las acciones Para asistir a las asambleas, los accionistas deben depositar en la sociedad sus acciones o un certificado de depósito o constancia de las cuentas de acciones escriturales librado al efecto por un banco, caja de valores u otra institución autorizada para su registro en el libro de asistencia a las asambleas con no menos de tres (3) días hábiles de anticipación al de la fecha fijada. La sociedad les entregará los comprobantes necesarios de recibo, que servirán para la admisión a la asamblea. Libro de Asistencia Los accionistas o sus representantes que concurran a la asamblea firmarán el libro de asistencia en el que se dejará constancia de sus domicilios, documentos de identidad y número de votos que les corresponda. <u>Certificados</u> No se podrá disponer de las acciones hasta después de realizada la asamblea excepto en el caso de cancelación del depósito. Quien sin ser accionista invoque los derechos que confiere un certificado o constancia que le atribuye tal calidad, responderá por los daños y perjuicios que se irroguen a la sociedad emisora, socios y terceros; la indemnización en ningún caso será inferior al valor real de las acciones que haya invocado al momento de la convocatoria de la asamblea. (...)	**Ley de Sociedades Comerciales 19.550**

Cumulative voting / Proportional representation	**1**	**SUMMARY**	Article 263 allows shareholders to elect up to one third of the directors through the cumulative voting system.	
		Art. 263	Elección por acumulación de votos Los accionistas tienen derecho a elegir hasta un tercio (1/3) de las vacantes a llenar en el directorio por el sistema de voto acumulativo. El estatuto no puede derogar este derecho, ni reglamentarlo de manera que dificulte su ejercicio; pero se excluye en el supuesto previsto en el artículo 262 -- cuando existan diversas clases de acciones. El Directorio no podrá renovarse en forma parcial o escalonada, si de tal manera se impide el ejercicio del voto acumulativo. (...)	**Ley de Sociedades Comerciales 19.550**
Oppressed Minorities (judicial venue / Obligatory Share Repurchase)	**1**	**SUMMARY**	Shareholders have the right to step out of the company and to the obligatory repurchase of their shares. Individual regulations overriding this general principle are considered void. "Supuestos Especiales" allows a shareholder to withdraw from the company when he disagrees with the company's transformation, or to changes in its bylaws.	
		Supuestos especiales	Cuando se tratare de la transformación, prórroga o reconducción, excepto en las sociedades que hacen oferta pública o cotización de sus acciones; de la disolución anticipada de la sociedad; de la transferencia del domicilio al extranjero, del cambio fundamental del objeto y de la reintegración total o parcial del capital, tanto en primera cuanto en segunda convocatoria. las resoluciones se adoptarán por el voto favorable de la mayoría de acciones con derecho a voto, sin aplicarse la pluralidad de voto. Esta disposición se aplicará para decidir la fusión y la escisión, salvo respecto de la sociedad incorporante que se regirá por las normas sobre aumento de capital.	**Ley de Sociedades Comerciales 19.550**
		Art. 245	<u>Derecho de receso</u> Los accionistas disconformes con las modificaciones incluidas en el último párrafo del artículo anterior, salvo en el caso de disolución anticipada y en el de los accionistas de la sociedad incorporante en la fusión y en la escisión, pueden separarse de la sociedad con reembolso del valor de sus acciones. También podrán separarse en los casos de aumentos de capital que competan a la asamblea extraordinaria y que impliquen desembolso para el socio, de retiro voluntario de la oferta pública o de la cotización de las acciones y de continuación de la sociedad en el supuesto de disolución de la sociedad por sanción firme de cancelación de oferta pública o de la cotización de sus acciones. El derecho de receso sólo podrá ser ejercido por los accionistas presentes que votaron en contra de la decisión dentro del quinto día y por los ausentes que acrediten la calidad de accionistas al tiempo de la asamblea, dentro de los quince (15) días de su clausura.	

Preemptive right to new issues	**1**	**SUMMARY**	Owners of ordinary shares hold the preemptive right to purchase new shares prior to their release into the market.	
		Art. 194	Suscripción preferente Las acciones ordinarias, sean de voto simple o plural, otorgan a su titular el derecho preferente a la suscripción de nuevas acciones de la misma clase en proporción a las que posean, excepto en el caso del artículo 216, último párrafo; también otorgan derecho de acrecer en proporción a las acciones que hayan suscripto en cada oportunidad. Cuando con la conformidad de las distintas clases de acciones expresada en la forma establecida en el artículo 250, no se mantenga la proporcionalidad entre ellas, sus titulares se considerarán integrantes de una sola clase para el ejercicio del derecho de preferencia. Los accionistas podrán su derecho de opción dentro de los treinta (30) días siguientes al de la última publicación, si los estatutos no establecieran un plazo mayor. Tratándose de sociedades que hagan oferta pública, la asamblea extraordinaria podrá reducir este plazo hasta un mínimo de diez (10) días, tanto para sus acciones como para debentures convertibles en acciones.	**Ley de Sociedades Comerciales 19.550**
		Art. 216	Cada acción ordinaria da derecho a un voto. (included as reference as it is mentioned in article 194).	
% of share capital to call an ESM	**5%**	**SUMMARY**	Shareholders can call an ESM if they own at least five percent of the shareholder capital. The company bylaws may establish a lower proportion	
		Art. 236	Convocatoria: oportunidad. Plazo Las asambleas ordinarias y extraordinarias serán convocadas por el directorio o el síndico en los casos previstos por la ley, o cuando cualquiera de ellos lo juzgue necesario o cuando sean requeridas por accionistas que representan por lo menos el cinco por ciento (5 %) del capital social, si los estatutos no fijaran una representación menor. En este último supuesto la petición indicará los temas a tratar y el directorio o el síndico convocará la asamblea para que se celebre en el plazo máximo de cuarenta (40) días de recibida la solicitud. (...)	**Ley de Sociedades Comerciales 19.550**
Mandatory Dividend	**0**	**SUMMARY**	While the law mentions the right of shareholders to receive part of the company's earnings as dividends, there is no reference to a minimum percentage of net earnings that should go to pay dividends to shareholders.	

		Art. 218	Usufructo de acciones. Derecho del usufructo. (...) El usufructuario tiene derecho a percibir las ganancias obtenidas durante el usufructo. Este derecho no incluye las ganancias pasadas a reserva o capitalizadas, pero comprende las correspondientes a las acciones entregadas por la capitalización.	**Ley de Sociedades Comerciales 19.550**

Argentina – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The winding up or liquidation law applies to companies and is contained in the restructuring and bankruptcy law N° 24.522 (Ley de concursos y quiebras N° 24.522). This law was last modified by laws 25563, 25589 and 25640). Corporate rescue, i.e. restructuring, is covered under the same law. Additionally, Argentina's commercial law (Ley de Sociedades Comerciales 19.550) provides information about the mandatory legal reserve.	
Restrictions on going into reorganisation	**1**	**SUMMARY**	Article 69 states the right of creditors to participate in the decision of whether to reorganise the company or to declare its bankruptcy. However, in article 73, the law requires that at least an absolute majority of creditors, representing 2/3 of short term lenders, approve the agreement -- excluding from this other types of creditors such as debenture holders, convertible bonds and negotiable obligations. As a result, the law potentially leaves unprotected the rights of 1/3 of creditors, if they oppose the agreement.	
		Artículo 69	LEGITIMADO El deudor que se encontrare en cesación de pagos o en dificultades económicas o financieras de carácter general, puede celebrar un acuerdo con sus acreedores y someterlo a homologación judicial.	**Ley de concursos y quiebras N° 24.522**
		Artículo 73	MAYORIAS Para que se dé homologación judicial al acuerdo es necesario que hayan prestado su conformidad la mayoría absoluta de acreedores quirografarios que representen las dos terceras partes del pasivo quirografario total, excluyéndose del cómputo a los acreedores comprendidos en las previsiones del artículo 45 (estos acreedores son los titulares de debentures, bonos convertibles, obligaciones negociables u otros títulos emitidos en serie que representen créditos contra el concursado).	
		Definición	El préstamo quirografario, llamado también directo o en blanco, es una operación de crédito a corto plazo, que consiste en entregar cierta cantidad a una persona física o moral, obligando a ésta, mediante la suscripción de uno o varios pagarés, a reembolsar la cantidad recibida más los intereses estipulados, en el plazo previamente convenido. (Aviso Legal-Banco Santander Mexicano S.A.)	

No automatic Stay on Assets	**0**	**SUMMARY**	Under the terms of article 58, a creditor is entitled to request the payment of his loan, but this process is not automatic. A judge needs to approve this payment. The judge gives the order either to cancel the debt obligation or to keep the asset under custody until the termination of the reorganisation process.	
		Artículo 58	RECLAMACION CONTRA CREDITOS ADMITIDOS: EFECTOS La reclamación contra la declaración de admisibilidad de un crédito o privilegio no impide el cumplimiento del acuerdo u obligación respectiva, debiendo el concursado poner a disposición del juzgado la prestación a que tenga derecho el acreedor, si éste lo solicita. El juez puede ordenar la entrega al acreedor o disponer la forma de conservación del bien que el concursado deba entregar. En el primer caso, fijará una caución que el acreedor deberá constituir antes de procederse a la entrega. En el segundo, determinará si el bien debe permanecer en poder del deudor o ser depositado en el lugar y forma que disponga. La resolución que se dicte sobre lo regulado por el apartado precedente es apelable.	**Ley de concursos y quiebras N° 24.522**
Secured creditors first (paid)	**1**	**SUMMARY**	Article 243 states that different types of creditors are given a priority of payment for their loans according to the numeric order in which they are listed under the text of article 241. There are two exceptions to this rule (article 243). (1) Items four and six of the list in article 241, refer to secured loans (item 4) and other special type of loans (item 6). These two types of obligations should be paid at their date of expiration. Second, secured creditors for whom their right of retention for a collateralised asset started to take effect at a date prior to that of the starting date of the obligations of other creditors with special privileges ('Créditos con Privilegio Especial') shall have the first order of priority during payment. In sum, both restrictions result in the protection of secured creditors against the claims of other creditors, such as those of workers or the state.	
		Artículo 243	ORDEN DE LOS PRIVILEGIOS ESPECIALES Los privilegios especiales tienen la prelación que resulta del orden de sus incisos, salvo: 1) en el caso de los incisos 4 y 6 del Artículo 241, en que rigen los respectivos ordenamientos; 2) el crédito de quien ejercía derecho de retención prevalece sobre los créditos con privilegio especial si la retención comenzó a ejercerse antes de nacer los créditos privilegiados. Si concurren créditos comprendidos en un mismo inciso y sobre idénticos bienes, se liquidan a prorrata.	**Ley de concursos y quiebras N° 24.522**

		Artículo 241	CREDITOS CON PRIVILEGIO ESPECIAL Tienen privilegio especial sobre el producido de los bienes que en cada caso se indica: 1) Los gastos hechos para la construcción, mejora o conservación de una cosa, sobre ésta, mientras exista en poder del concursado por cuya cuenta se hicieron los gastos; 2) Los créditos por remuneraciones debidas al trabajador por seis (6) meses y los provenientes por indemnizaciones por accidentes de trabajo, antigüedad o despido, falta de preaviso y fondo dedesempleo, sobre las mercaderías, materias primas y maquinarias que, siendo de propiedad, del concursado, se encuentren en el establecimiento donde haya prestado sus servicios o que sirvan para su explotación; 3) Los impuestos y tasas que se aplican particularmente a determinados bienes, sobre éstos; 4) Los créditos garantizados con hipoteca, prenda, warrant y los correspondientes a debentures y obligaciones negociables con garantía especial o flotante;	
			5) Lo adeudado al retenedor por razón de la cosa retenida a la fecha de la sentencia de quiebra. El privilegio se extiende a la garantía establecida en el Artículo 3943 del Código Civil; 6) Los créditos indicados en el Título III del Capítulo IV de la ley N. 20.094, en el Título IV del Capítulo VII del Código Aeronáutico (ley 17.285), los del Artículo 53 de la ley 21.526, los de los Artículos 118 y 160 de la ley 17.418. Referencias Normativas: Ley 340 Art.3943, Ley 17.285, Ley 17.418 Art.118, Ley 17.418 Art.160, Ley 20.094, Ley 21.526 Art.53 (I'M NOT SURE ABOUT THE NEED TO REPEAT THE SAME IN 2 consecutive paragraphs.) Articulo 245 SUBROGACION REAL El privilegio especial se traslada de pleno derecho sobre los importes que sustituyan los bienes sobre los que recaía, sea por indemnización, precio o cualquier otro concepto que permita la subrogación real.	
Management Replaced	**0**	**SUMMARY**	Under Article 15, the old management team retains operational control of the business during the reorganisation process. Article 14 describes the appointment of a supervisor whose function is to oversee the running of the company and to report to the judge about the status of the reorganisation proceeds. Article 17 specifies that there are certain cases where actions taken by the management could trigger a decision from the judge to order the replacement of the old management team. Those cases are outlined under articles 16 and 25.	

		Artículo 14	RESOLUCION DE APERTURA. CONTENIDO Cumplidos en debido tiempo los requisitos legales, el juez debe dictar resolución que disponga: 2) La designación de audiencia para el sorteo del síndico.	**Ley de concursos y quiebras N° 24.522**
		Artículo 15	ADMINISTRACION POR EL CONCURSADO El concursado conserva la administración de su patrimonio bajo la vigilancia del síndico.	
		Artículo 16	ACTOS PROHIBIDOS El concursado no puede realizar actos a título gratuito o que importen alterar la situación de los acreedores por causa o título anterior a la presentación. Pronto pago de créditos laborales. El juez del concurso autorizará el pago de las remuneraciones debidas al trabajador, las indemnizaciones por accidentes, sustitutiva del preaviso, integración del mes del despido y las previstas en los Artículos 245 a 254 de la Ley de Contrato de Trabajo, que gocen de privilegio general o especial, previa comprobación de sus importes por el síndico, los que deberán ser satisfechos prioritariamente con el resultado de la explotación. Para que proceda el pronto pago no es necesaria la verificación del crédito en el concurso ni sentencia en juicio laboral previo. Del pedido de pronto pago se da vista al síndico por diez (10) días. Sólo puede denegarse total o parcialmente mediante resolución fundada en los siguientes supuestos: que los créditos no surjan de la documentación legal y contable del empleador, o en que los créditos resultan controvertidos o que existandudas sobre su origen o legitimidad o sospecha de connivencia dolosa entre el trabajador y el concursado. En estos casos el trabajador debe verificar su crédito conforme al procedimiento previsto en los artículos 32 y siguientes. Actos sujetos a autorización. Debe requerir previa autorización judicial para realizar cualquiera de los siguientes actos; los relacionados con bienes registrables; los de disposición o locación de fondos de comercio; los de emisión de debentures con garantía especial o flotante; los de emisión de obligacionesnegociables con garantía especial o flotante; los de constitución de prenda y los que excedan de la administración ordinaria de su giro comercial. La autorización se tramita con audiencia del síndico y del comité de acreedores; para su otorgamiento el juez ha de ponderar la conveniencia para la continuación de las actividades del concursado y la protección, de los intereses de los acreedores.	

		Artículo 17	ACTOS INEFICACES Los actos cumplidos en violación a lo dispuesto en el Artículo 16 son ineficaces de pleno derecho respecto de los acreedores. Separación de la administración. Además, cuando el deudor contravenga lo establecido en los Artículos 16 y 25 o cuando oculte bienes, omita las informaciones que el juez o el síndico le requieran, incurra en falsedad en las que produzca o realice algún acto en perjuicio evidente para los acreedores, el juez puede separarlo de la administración por resolución fundada y designar reemplazante. Esta resolución es apelable al solo efecto devolutivo, por el deudor. Si se deniega la medida puede apelar el síndico. El administrador debe obrar según lo dispuesto en los artículos 15 y 16. Limitación. De acuerdo con las circunstancias del caso, el juez puede limitar la medida a la designación de un coadministrador, un veedor o un interventor controlador, con las facultades que disponga. En todos los casos, el deudor conserva en forma exclusiva la legitimación para obrar, en los actos del juicio que, según esta ley, correspondan al concursado.	
		Artículo 25	VIAJE AL EXTERIOR El concursado y, en su caso, los administradores y socios con responsabilidad ilimitada de la sociedad concursada, no pueden viajar al exterior sin previa comunicación al juez del concurso, haciendo saber el plazo de la ausencia, el que no podrá ser superior a cuarenta (40) días corridos. En caso de ausencia por plazos mayores, deberá requerir autorización judicial.	
Legal Reserve	**20%**	**SUMMARY**	The law mandates a legal reserve amounting to twenty percent of shareholders' capital.	
		Article 70 Legal Reserve	Las sociedades de responsabilidad limitada y las sociedades por acciones, deben efectuar una reserva no menor del cinco por ciento (5%) de las ganancias realizadas y líquidas que arroje el estado de resultados del ejercicio, hasta alcanzar el veinte por ciento (20%) del capital social. Cuando esta reserva quede disminuida por cualquier razón, no pueden distribuirse ganancias hasta su reintegro. En cualquier tipo de sociedad podrán constituirse otras reservas que las legales, siempre que las mismas sean razonables y respondan a una prudente administración.	**Ley de Sociedades Comerciales - 19.550**

Brazil – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Shareholder rights in Brazil are prescribed in Law 6,404, of December 15, 1976, as amended (the "Corporation Law"). The Corporation Law regulates the so-called *sociedade anônima,* which is the corporate form most closely resembling a joint-stock company or corporation. The Law nº 6.404/1976 didn't suffer any changes in 2003. It was last atended in 2001 [Law nº 10.303/2001]. The essential rights of a shareholder of a *sociedade anônima* are set forth in article 109 of the Corporation Law. According to this article, neither the by-laws nor a resolution by a meeting of shareholders can deprive a shareholder from the following rights (as well as from the remedies and lawsuits available to assure such rights): (i) to participate in the profits; (ii) to participate in the assets of the company in case of its liquidation; (iii) to monitor the management of the company pursuant to the exercise of certain shareholders rights discussed below; (iv) the preemptive right in the primary subscription of shares, participation certificates convertible into shares, debentures convertible into shares and/or subscription bonuses; and (v) to withdraw from the company in case of certain fundamental changes in the company. A *sociedade anônima* may be either private or public. Rights of shareholders of public companies can be found in additional regulations in Law 6,385, December 7, 1976, as amended (the "Securities Markets Law") and several Instructions by the Comissão de Valores Mobiliários – CVM, the Brazilian capital markets regulator. The Securities Markets Law sets forth, among other subjects, basic rules for the issuing and distribution of securities on the market; the trading and intermediation on the securities market; the organisation, functioning of, and transactions on, stock exchanges; and the auditing of publicly held companies. The CVM Instructions provide the procedures to be followed in connection with the Corporation Law and Securities Markets rules. Relevant legislation/regulations: Law 6,404, of December 15, 1976, as amended (for closed and public companies). Law 6,385, December 7, 1976, as amended (for public companies only). CVM Instructions (for public companies only).	

One share -one vote	**1**	**SUMMARY**	According to article 110 ordinary shares have the right to one vote per share. In Brazil, however, most shares traded in the stock market are preferred shares, which do not hold the right to vote except in the circumstances described in paragraphs one through three of article 111.	
		Article 110	Each common share shall carry the right to one vote in the resolutions of a general meeting. Paragraph 1. The bylaws may restrict the number of votes of each shareholder. Paragraph 2. No class of shares may carry more than one vote in respect of each share.	**Corporation Law no. 6.404**
		Article 111	Preferred Shares The bylaws may withhold from the preferred shares one or more of the rights assigned to the common shares, including the right to vote, or may grant such rights with restrictions, subject to the provisions of article 109. Paragraph 1. A preferred share without a right to vote shall acquire such a right if, during a period provided for in the bylaws, which shall not exceed three consecutive fiscal years, the corporation fails to pay the fixed or minimum dividend to which the share is entitled, and the right shall continue until payment has been made, if the dividend is not cumulative, or until all cumulative dividends in arrears have been paid. Paragraph 2. In the circumstances and under the same conditions as laid down in paragraph 1, above, any restrictions on the voting right of a preferred share shall be suspended. Paragraph 3. The bylaws may provide that the provisions of paragraphs 1 and 2 shall become effective after completion of the initial undertaking of the corporation.	
Proxy by Mail allowed	**0**	**SUMMARY**	Under the terms of article 126, a shareholder is allowed to name a proxy to represent him during a shareholders meeting. Proxy votes by mail are not provided for under Brazilian legislation.	
		Article 126	The people attending a general meeting shall produce proof of their shareholder status, in accordance with the following rules: I - upon request, an owner of a registered share shall exhibit a document proving his identity; II - if required by the bylaws, an owner of a book entry share or of a share in custody, according to the provisions of article 41, shall exhibit or deposit at the corporation, in addition to a document proving his identity, the corresponding proof produced by the financial institution; (Text as determined by Law no. 9.457 of May 5, 1997) III - an owner of a bearer share shall exhibit the corresponding certificate, or a receipt of deposit as provided in item II, above;	**Corporation Law no. 6.404**

			IV - an owner of a book share or a share held in custody under article 41; shall exhibit, in addition to the identification document, or deposit with the corporation if required by the bylaws, a voucher issued by the depositary financial institution. Paragraph 1. A shareholder may be represented at a general meeting by a proxy appointed less than one year before, who shall be a shareholder, a corporation officer or a lawyer; in a publicly held corporation, the proxy may also be a financial institution. A condominium shall be represented by its investment fund officer. Paragraph 2. A request for the appointment of a proxy, made by post or by public notice, shall be subject to the regulations which may be issued by the Comissão de Valores Mobiliários and shall satisfy the following requirements: (a) contain all information necessary to exercise the requested vote; (b) entitle the shareholder to vote against a resolution by appointing another proxy to exercise the said vote; (c) be addressed to all shareholders whose addresses are kept by the corporation. (Text as determined by Law no. 9.457 of May 5, 1997) Paragraph 3. Subject to the requirements of the previous paragraph, any shareholder whose shares with or without voting rights represent one-half per cent or more of the capital shall be entitled to request a list of the addresses of the shareholders for the purpose of paragraph 1, above. (Text as determined by Law no. 9.457 of May 5, 1997) Paragraph 4. The legal representative of a shareholder shall be authorized to attend general meetings.	
Shares not blocked before meeting	**1**	**SUMMARY**	In article 126, which outlines the main requirements for shareholders to attend a shareholders meeting, there is no mention of shareholders being barred from trading their shares prior to a shareholders meeting. In public companies, however, the company bylaws can set minimum requirements for showing up at a Shareholder's meeting; for example that the shares be registered at least 72 hours prior to the GSM session.	**Corporation Law no. 6.404**

Cumulative voting/ proportional representation	**1**	**SUMMARY**	Under the terms of article 141, shareholders who own at least ten percent of the voting capital are allowed to request that their votes be cast using the multiple voting principle. Cumulative voting rights must be exercised with 48 hours' notice before the shareholders meeting. The number of votes necessary for the election of each director must be told to the shareholders by the person who takes the chair of the meeting, based on the attendance book. In the event of a tie, a new cast is made to fulfil the position under the same cumulative voting procedure. The removal of any director appointed under a cumulative voting procedure results in the removal of the remaining members and a new cast for appointment of the entire Board of Directors.	
		Article 141	Multiple Vote Article Whether or not provided for in the bylaws, when electing the members of the administrative council, shareholders representing at least one-tenth of the voting capital may request that a multiple voting procedure be adopted to entitle each share to as many votes as there are council members and to give each shareholder the right to vote cumulatively for only one candidate or to distribute his votes among several candidates.	**Corporation Law no. 6.404**

Oppressed Minorities (Judicial Venue/ Obligatory Share Repurchase)	**1**	**SUMMARY**	Shareholders may file actions (a) against other shareholders seeking, for example, compliance with voting obligations assumed under shareholders agreements; (b) against management, holding them liable for damage caused to the company's assets or for acting against the best interests of the company; (c) against the company, exercising the rights to which they are entitled as regards the company, for example, the right to receive dividends; (d) against the controlling shareholders, when they act in prejudice of shareholders interests. Brazilian law only permits a shareholder to represent the company in judicial actions in cases where the management is held liable for the acts performed during management of the company, and considering that any award granted to the shareholder shall inure to the benefit of the company. Other ownership rights of the company that possibly are not exercised by management may not be claimed on behalf of the company (derivative action) by shareholders that disagree with the inertia of company management. In this case, however, shareholders preserve their individual right to protect personal equity by means of court actions that prevent or redress any damage caused to them by company management. Lawsuits involving violation of shareholders rights are generally heard by State Court judges, with the exception of cases involving federal public entities in which the Federal Courts are attributed competence. Although there is no special judicial venue solely for the minority shareholders and no special courts have been assigned to hear corporate cases, regular courts have been a reasonably reliable mechanism for protecting shareholders rights. It is worth mentioning that in a number of cases courts have granted preliminary injunctions to suspend the effects of attempted abuse of power.	
		Article 158	A manager shall not be personally liable for the commitments he undertakes on behalf of the company and by virtue of action taken in the ordinary course of business; he shall, however, be liable for any loss caused when he acts: I. - within the scope of his authority, with negligence or fraud; II. - contrary to the provisions of the law or of the bylaws.	**Corporation Law no. 6.404**

		Article 159	By a resolution passed in a general meeting, the company may bring an action for civil liability against any manager for the losses caused to the company's property. […] Paragraph 3. - Any shareholder may bring the action if proceedings are not instituted within three months from the date of the resolution of the general meeting. Paragraph 4. - Should the general meeting decide not to institute proceedings, they may be instituted by shareholders representing at least five percent of the capital. […] Paragraph 7. - The action permitted under this article shall not preclude any action available to any shareholder or third party directly harmed by the acts of the manager.	
Preemptive right to new issues	**1**	**SUMMARY**	As a general rule, neither the bylaws nor a resolution by a meeting of shareholders can deprive a shareholder of the preemptive right in the primary subscription of shares. Nevertheless, the bylaws of a public company that authorize capital increases may provide for the issue of shares, convertible debentures, or subscription warrants, without any preemptive right (or with a reduced term of exercise) provided that the securities are placed (i) by sale on a stock exchange or by public subscription; or (ii) by an exchange for shares in a public offer to acquire control.	
		Article 109	Neither the bylaws nor a general meeting may deprive a shareholder of the right: […] IV - of first refusal in the subscription of shares, participation certificates convertible into shares, debentures convertible into shares and subscription warrants, without prejudice of what is set forth in articles 171 and 172;	**Corporation Law no. 6.404**

		Article 171	Right of First Refusal The shareholders shall have a right of first refusal in the subscription of an increase in capital in proportion to the number of shares they own. Paragraph 1. The following rules shall apply where the capital is divided into different types or classes of shares and the increase is made by the issue of more than one type or class: (a) in the case of an increase of the number of shares of all existing types and classes in the same proportion, each shareholder shall have a right of first refusal to shares of the same type or class as those he owns; (b) if the shares issued are of existing types or classes but the respective proportions in the capital are altered, the right of first refusal shall be offered in respect of the shares to the holders of the same types or classes, and the offer may only be extended to the holders of another type or class if the former shares are insufficient to assure the shareholders the same proportion in the increase as they had in the capital before the increase; (c) should shares of a new type or class be issued, each shareholder shall have a right of first refusal to all types and classes of shares created by the increase, in proportion to the number of shares he owns. Paragraph 2. If an increase is made by the capitalization of credits or a subscription in property, the shareholders are assured to have the right of first refusal and, as the case may be, any sum paid by them shall be delivered to the owner of the credit to be capitalized or of the property to be incorporated. Paragraph 3. The shareholders shall have a right of first refusal to subscribe to issues of convertible debentures, subscription bonuses and convertible founders' shares which are to be sold by the corporation; but the conversion of such securities into shares or the granting or exercising of an option to purchase shares, shall not give rise to any right of first refusal. Paragraph 4. The bylaws or a general meeting shall establish a period of not less than thirty days within which a right of first refusal may be exercised. Paragraph 5. Where shares are held on usufruct or trust, if the right of first refusal has not been exercised by the shareholder ten days prior to the end of the period, it may be exercised by the usufruct beneficiary or trustee. Paragraph 6. A shareholder may assign his right of first refusal. Paragraph 7. In a publicly held corporation, whichever body which is responsible for the decision to issue securities by private subscription shall also decide what course of action should be followed if any of the securities are not underwritten, and may: (a) direct their sale on a stock exchange, for the benefit of the corporation; or

			(b) if the bulletin or subscription list so indicates, allot them, in proportion to the amounts underwritten among the shareholders who have requested a reservation of any remainder in the subscription offer or list; any balance shall be sold on a stock exchange, as provided for in the preceding item. Paragraph 8. In a private corporation, the allotment shall be as provided in paragraph 7 (b) and any balance, may be underwritten by third parties in accordance with the criteria established by the general meeting or by the administrative bodies.	
% of share capital to call an ESM	**5%**	**SUMMARY**	According to article 123 items (c) and (d), at least five percent of share capital owners are needed to call a shareholders meeting.	
		Article 123	Subject to the bylaws, general meetings shall be called by the administrative council, if any, or by the directors. Sole Paragraph. A general meeting may also be called: (c) whenever the corporation officers do not, within eight days, comply with their justifiable request that a meeting be called, indicating the matters to be discussed, by shareholders representing at least five per cent of the capital. (Text as determined by Law no. 9.457 of May 5, 1997) (d) whenever the corporation officers do not, within eight days, comply with the request that a meeting be called in order to appoint a statutory audit committee, by shareholders representing at least five per cent of the voting capital, or five per cent of nonvoting shareholders. (Text added by Law no. 9.457 of May 5, 1997)	**Corporation Law no. 6.404**

Mandatory Dividend	**25%/50%**	**SUMMARY**	According to Article 202 of the Corporation Law shareholders are entitled to receive as mandatory dividend, in each fiscal year, a portion of the profits as may be stated in the bylaws (not less than 25%) or, if the bylaws are silent in this regard, 50% of the net profits of the fiscal year, reduced or increased by the amount allocated to the legal reserve and contingency reserves. A few companies that existed prior to the introduction of the 25% minimum in the Corporation Law, might have stipulated a lower percentage of dividend distribution in their bylaws (lower than 25%). These companies are still entitled to distribute such lesser amount until they decide to change their bylaws on this point. According to the Corporation Law and subject to opposition by any shareholder present, a general meeting of a public company may resolve to distribute dividends in an amount inferior to the mandatory dividends or to retain the entire net profit exclusively for purposes of raising funds by means of nonconvertible debentures. Also, a company is permitted to suspend the mandatory dividend in respect of common shares and preferred shares not entitled to a fixed or minimum dividend if its board of directors and Fiscal Board report to the shareholders meeting that the distribution would be incompatible with the financial circumstances of such company and the shareholders ratify this conclusion at the shareholders meeting.	**Corporation Law no. 6.404**

		Article 202	Compulsory Dividend In every fiscal year, the shareholders shall be entitled to receive as a compulsory dividend the portion of the profits as may be stated in the bylaws or, in the event the latter is silent in this regard, the amount to be determined as follows: (Text as determined by Law n. 10.303, of October 31, 2001) I – half of the net profit as increased or reduced by: (Text as determined by Law n. 10.303, of October 31, 2001) a) the amount intended to form the legal reserve (Article 193); and (Text added by Law n. 10.303, of October 31, 2001) b) the amount intended to form the reserves for contingencies (Article 195) and any written-off amounts of the same reserves formed in previous fiscal years; (Text as determined by Law n. 10.303, of October 31, 2001) II – the payment of dividends provided for in item I may be limited to the amount of net profits realized during the fiscal year, provided that the difference is recorded as a reserve for realizable profits (Article 197); (Text as determined by Law n. 10.303, of October 31, 2001) III – profits registered in the reserve of realizable profits, when realized and not absorbed by losses in subsequent fiscal years, shall be added to the first dividend declared after their realization. (Text as determined by Law n. 10.303, of October 31, 2001) Paragraph 2. Whenever the bylaws are silent and the general meeting resolves to amend the bylaws in order to regulate compulsory dividends, the compulsory dividend may not be less than twenty-five per cent (25%) of the net profit as adjusted in accordance with item I of this Article. (Text as determined by Law n. 10.303, of October 31, 2001) Paragraph 3. As long as no present shareholder opposes it, a general meeting may resolve to distribute a dividend which is less than the compulsory dividend prescribed by this Section or to retain the entire net profit, in the following corporations: (Text as determined by Law n. 10.303, of October 31, 2001) I – publicly-held corporations which have gone public exclusively to raise capital by issuing non-convertible debentures; (Text added by Law n. 1.303, of October 31, 2001) II – closely-held corporations, except those controlled by publicly-held corporations not in compliance with the provisions of item I. (Text added by Law n. 1.303, of October 31, 2001) Paragraph 4. - The dividend prescribed by this article shall not be compulsory in a fiscal year in which the administrative bodies notify the general meeting that its payment would be incompatible with the financial standing of the corporation. The audit committee, if in operation, shall deliver an opinion on any such notice and, in a public corporation, the officers shall forward to the Comissão de Valores Mobiliários, within five days of holding the general meeting, an explanation justifying the notice. Paragraph 5. - The profits that are not distributed by virtue of paragraph 4 shall be attributed to a special reserve and, if not absorbed by losses in subsequent fiscal years, shall be paid as dividends as soon as the financial situation of the corporation permits such payment.	

Brazil – Creditor Rights

Creditor Rights		Relevant Article	Detail	Law
GENERAL SUMMARY			The Decree-Law nº 7.661/1945 is still in force. It was last amended was in 1998. The new Brazilian Bankruptcy Law is still a bill and it is in discussion at the Federal Senate. The bill number in Senate is PLC 71/2003 and in House [Câmara dos Deputados] is PL. 4376/1993. Brazilian legislation provides for two basic types of procedures to be followed by companies facing irreversible or temporary financial difficulties: the bankruptcy and the *concordata*. According to Decree-Law No. 7,661 of June 21, 1945 (the "Bankruptcy Law"), bankruptcy is the failure of a debtor engaged in trade or business to honor its obligations when due, on account of insolvency. A bankrupt person is defined as a person engaged in trade or business, who, without legal right, fails to pay a certain sum on the due date as evidenced by a document, which entitles the holder to institute summary proceedings to enforce payment. Nevertheless, Brazilian law allows the avoidance of bankruptcy by means of a procedure defined as the *concordata* (reorganisation). *Concordata* is a privilege conferred by law upon commercial companies and those held equivalent to them, as well as on individual merchants, by means of which a debtor in financial difficulties is granted the right to pay his creditors at intervals of time established in the special law, which may never exceed two years after the date the company files its petition for *concordata* to the court. Payment may be made of either the total amount of the debt or a certain percentage of that amount. *Concordata* is similar to a Chapter 11 situation in the United States and may be simply defined as the court approved composition with creditors when the debtor is temporarily unable to meet his obligations. Relevant legislation/regulations: Decree-law 7,661, of June 21, 1945	

Restrictions on going into reorganisation	**1**	**SUMMARY**	Although no creditor consent is required, a Brazilian company seeking to file for *concordata* must meet the following eligibility requirements: (i) it must possess assets worth more than 50% of its unsecured debts; (ii) it must have been in business for at least two years; (iii) it must not have filed for *concordata* relief within the preceding five years; (iv) it must have complied with the terms of any previously granted *concordata* decree; (v) its directors and officers must not have been found guilty of a bankruptcy crime; and (vi) it must have duly filed all applicable records with the appropriate commercial registry. In addition, a Brazilian company may not file for *concordata* if an official protest has been filed against the company for the failure to pay a debt, although this requirement is often waived by Brazilian courts. The *concordata* will be granted if the judge is convinced that the above formalities have been performed (art. 161, par. 1). Otherwise, the judge will declare the company bankrupt, (art. 161).	
		Article 139	A concordata can be either preventive or suspensive, depending on whether it is filed for in court before (preventive) or after (suspensive) the bankruptcy declaration.	**DECREE-LAW No. 7661**

		Article 140	The following parties cannot file for a concordata: I. - a debtor that failed to file, register or enroll the documents and books essential for legally engaging in business at the trade registry; II. - a debtor that failed to file for bankruptcy within the term set out in article 8; III. - a debtor found against for a bankruptcy crime, theft, robbery, undue appropriation, embezzlement and other fraud, unfair competition, falsity, misappropriation, contraband, crime again an invention privilege or industry and business trademarks and crimes against the general welfare; and IV. - a debtor that less than 5 (five) years earlier has filed for the same legal favor or has not complied with a concordata filed for previously.	
		Article 142	Within the time frame for the notice mentioned in item II of article 174, or of the public notice mentioned in article 181, the creditors can file a motion against the concordata petition, based on a substantiated petition, which will indicate the proof that is deemed to be necessary.	
		Article 174	Once the report of the commission agent has been turned in (article 169, item X), the registry clerk will have 24 (twenty-four) hours to: II. - if the debtor were to have complied with that requirement, the registry clerk will have published in the official gazette a notice to creditors that during 5 (five) days they can file a motion against the concordata (articles 142 through 146).	
		Article 181	Checking that the petition is formulated pursuant to the terms of this law, the judge will order that it be published by public notice transcribing the petition, notifying the creditors that they have 5 (five) days to file a motion against the concordata (articles 142 through 146). Sole Paragraph - If the debtor were to have offered a guarantee to ensure compliance with the concordata, the court in its order will set a time frame for this to be carried out.	
		Article 142	Within the time frame for the notice mentioned in item II of article 174, or of the public notice mentioned in article 181, the creditors can file a motion against the concordata petition, based on a substantiated petition, which will indicate the proof that is deemed to be necessary.	

		Article 143	The following events provide the basis for a motion against the concordata: I. - sale of creditors that is greater than the liquidation in the bankruptcy or the obvious unfeasibility of the concordata's being carried out, with due regard in either of the cases, among other items, for the proportion between the value of the assets and the percentage offered; II. - inaccuracy of the report, official report, and information from the bankruptcy trustee, or the commission agent, which facilitates granting of the concordata; and III. - any act of fraud or bad faith that might have an effect upon the formation of the concordata. Sole Paragraph - In the event of a preventive concordata, the occurrence of a fact characterizing a bankruptcy crime will constitute grounds for the motion filed.	
No automatic Stay on Assets	**1**	**SUMMARY**	Only credits without any special preferences or guarantees are bound under the *concordata*. Unsecured credits are usually those represented by debts arising from cash loans sale and purchase of goods, current accounts, etc. Secured credits, such as those guaranteed by *in rem* guarantees and amounts due for court costs and expenses are not subject to the *concordata*, and will only be included in the composition of claims with other creditors of the company if and when bankruptcy is decreed. Accordingly, assets underlying secured credits are not subject to automatic stay and, therefore, may be possessed by secured creditors.	
		Article 156	§1.- The debtor in his/her petition should offer the unsecured creditors, based on the balance of their credits, minimum payment of: I. - 50% (fifty percent) if in cash; II.- 60% (sixty percent), 75% (seventy-five percent), 90% (ninety percent), or 100% (one hundred percent) if the term, respectively, were to be 6 (six) , 12 (twelve), 18 (eighteen), or 24 (twenty-four) months, and at least 2/5 (two-fifths) should be paid back in the first year, in the last two alternatives.	**DECREE-LAW No. 7661**

Secured creditors first (paid)	**0**	**SUMMARY**	The distribution of the bankruptcy estate under the Brazilian legal system is governed by a statutory schedule of priorities set forth in the Bankruptcy Law. The schedule of priorities determines the following classes of claims, each of which must be satisfied in full before the following class of claims receives any compensation: (1) claims for compensation for workplace injuries; (2) claims for wages and severance pay; (3) claims for overdue federal, state and local taxes; (4) claims relating to social security and other mandatory government programs; (5) claims in connection with the debts and expenses of the bankruptcy estate; (6) various classes of secured credits; and (7) unsecured credits.	**DECREE-LAW No. 7661**

		Article 102	With due regard as from January 2, 1958 for the preference of employee, salary and labor claim credits, regarding whose legitimacy there is no doubt whatsoever, or should there be, in accordance with a decision to be handed down by the labor courts, and after these, the credit preference based on charges or debts of the bankrupt estate (article 124), the classification of the credits in the bankruptcy will occur as follows: I. - credits with guarantee in rem rights; II. - credits with special privileges in respect to certain goods; III. - credits with general privileges; and IV. - unsecured creditors. Paragraph 1. - Indemnities paid out for work accidents and any other credits that due to special law enjoy this same priority come before all other credits approved in the bankruptcy. Paragraph 2. - The following are eligible for special privileges: I. - credits to which civil and commercial law attributed special privileges, unless there is a provision to the contrary set out in this law; II. - credits for rental of a building leased to the bankrupt company for its commercial or industrial business establishment, on the respective personal assets; and III. - the credits on whose owners the law grants a lien on the item retained; the creditor is still eligible for a lien on movable property that is in its possession due to the consent of the debtor, even though the debt is not in arrears, whenever there is a connection between this and the item under lien, with its being presumed that this connection between tradespersons results from their business relationships. Paragraph 3. - The following credits have general privileges: I. - the credits that are so classified under civil and commercial law, except for a provision to the contrary set out in this law; and II. - the credits from retirement and pension institutes or savings banks, for any contributions that the bankrupt entity is owing. Paragraph 4. - Any credits that pursuant to this law or special law are not categorized under classes I, II and III of this article, and the balances of the credits not covered by the proceeds of assets set aside for their payment are considered unsecured credits.	

Management Replaced	**0**	**SUMMARY**	Management is not replaced during the *concordata*. The company continues to conduct its business and manage its affairs under the supervision of a special referee, the *Comissário.* The *Comissário* is selected from among the company's unsecured creditors or, if the creditors do not forward a name, from a panel of professional referees. The company may not, however, dispose of real property or pledge assets as collateral, except in cases of obvious necessity or vital interest to the company. Any such transactions must be approved in advance by the bankruptcy judge upon a petition made by the *Comissário*.	
		Article 167	During the process of preventive concordata, the debtor will retain management of its property, and will continue to engage in its business, under the supervision of the commission agent. It cannot however alienate real property or offer any guarantees in rem, except in the case of patent need, which need must be recognized by the court, after consultation with the commission agent.	**DECREE-LAW No. 7661**
Legal Reserve	**20%**	**SUMMARY**	The Corporation Law does not condition the dissolution of the firm on the absence of a minimum percentage of share capital. Nevertheless, the Legal Reserve, which all *sociedades anonimas* must maintain, serves the objective of preserving the integrity of the share capital.	
		Article 193	Legal Reserve Before any other use, five per cent of the net profit shall be allocated to form the Legal Reserve, which may not exceed twenty per cent of the capital. Paragraph 1. - The corporation may refrain from allocating resources to the legal reserve during any fiscal year in which the balance of such reserve, taken together with the amount of the capital reserves mentioned in paragraph 1 of article 182, exceeds thirty per cent of the capital. Paragraph 2. - The legal reserve is intended to guarantee the capital and may only be utilized to offset losses or to increase the capital.	**Corporation Law**

Chile – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The corporate legal framework of Chile is governed by company law 18046 dated 1981 (Ley sobre Sociedades Anónimas 18046 de 1981). This law was last amended in May 2002.	
One share -one vote	**1**	**SUMMARY**	Article 20 allows for two types of shares, ordinary and preferred. Article 21 states that each share will have the right to one vote per share.	
		Art. 20	Las acciones pueden ser ordinarias o preferidas. Las preferencias deberán constar en los estatutos sociales y en los títulos de las acciones deberá hacerse referencia a ellas. No podrá estipularse preferencias sin precisar el plazo de su vigencia. Tampoco podrá estipularse preferencias que consistan en el otorgamiento de dividendos que no provengan de utilidades del ejercicio o de utilidades retenidas y de sus respectivas revalorizaciones. Los estatutos de las sociedades anónimas que hagan oferta pública de sus acciones podrán contener preferencias o privilegios que otorguen a una serie de acciones preeminencia en el control de la sociedad, por un plazo máximo de cinco años, pudiendo prorrogarse por acuerdo de la junta extraordinaria de accionistas.	**Law 18046**
		Art. 21.	Cada accionista dispondrá de un voto por cada acción que posea o represente. Sin embargo, los estatutos podrán contemplar series de acciones preferentes sin derecho a voto o con derecho a voto limitado. No podrán establecerse series de acciones con derecho a voto múltiple. Las acciones sin derecho a voto o las con derecho a voto limitado, en aquellas materias que carezcan igualmente de derecho a voto, no se computarán para el cálculo de los quórum de sesión o de votación en las juntas de accionistas.	

			En los casos en que existan series de acciones preferentes sin derecho a voto o con derecho a voto limitado, tales acciones adquirirán pleno derecho a voto cuando la sociedad no haya cumplido con las preferencias otorgadas en favor de éstas, y conservarán tal derecho mientras no se haya dado total cumplimiento a dichas preferencias. En caso de duda, en las sociedades anónimas abiertas, la adquisición del pleno derecho a voto será resuelta administrativamente por la Superintendencia con audiencia del reclamante y de la sociedad y en las cerradas, por el árbitro o la justicia ordinaria en su caso, en procedimiento sumario de única instancia y sin ulterior recurso.	
Proxy by Mail allowed	**0**	**SUMMARY**	Article 64 describes the right of a shareholder to assign a proxy to represent him at the shareholder meetings. It makes no reference to proxy by mail.	
		Art. 64	Los accionistas podrán hacerse representar en las juntas por medio de otra persona, aunque ésta no sea accionista. La representación deberá conferirse por escrito, por el total de las acciones de las cuales el mandante sea titular a la fecha señalada en el artículo 62 -- el cual estipula que solo pueden participar en las juntas y ejercer sus derechos de voz y voto los titulares de acciones inscritas en el Registro de Accionistas con cinco días de anticipación a aquel en que haya de celebrarse la respectiva junta. El Reglamento señalará el texto del poder para la representación de acciones en las juntas y las normas para la calificación.	**Law 18046**
Shares not blocked before meeting	**1**	**SUMMARY**	The law does not require shares to be blocked from trading either before or after a shareholders meeting takes place.	
		Art. 62	Solamente podrán participar en las juntas y ejercer sus derechos de voz y voto, los titulares de acciones inscritas en el Registro de Accionistas con cinco días de anticipación a aquel en que haya de celebrarse la respectiva junta. Los titulares de acciones sin derecho a voto, así como los directores y gerentes que no sean accionistas, podrán participar en las juntas generales con derecho a voz. Para los efectos de esta ley, se entiende por acciones sin derecho a voto aquellas que tengan este carácter por disposición legal o estatutaria.	**Law 18046**
Cumulative voting / Proportional	**1**	**SUMMARY**	Article 66 describes the right of shareholders to use the cumulative voting procedure to cast all their votes for one candidate for election to the Board of Directors.	

representation		**Art. 66**	En las elecciones que se efectúen en las juntas, los accionistas podrán acumular sus votos en favor de una sola persona, o distribuirlos en la forma que estimen conveniente, y se proclamarán elegidos a los que en una misma y única votación resulten con mayor número de votos, hasta completar el número de cargos por proveer. Si existieren directores titulares y suplentes, la sola elección de un titular implicará la del suplente que se hubiere nominado previamente para aquél. Lo dispuesto en los incisos precedentes no obsta a que por acuerdo unánime de los accionistas presentes con derecho a voto, se omita la votación y se proceda a elegir por aclamación.	**Law 18046**
Oppressed Minorities (Judicial Venue / Obligatory Share Repurchase)	**1**	**SUMMARY**	Article 69 describes the right of any dissident shareholder to step out of the company and to receive full payment for the shares he owns. It also states the reasons behind this retirement, such as the transformation of the society, its merger, etc. Article 71, states that the Board of Directors has the right to call an Extraordinary Shareholders Meeting (ESM) in order to confirm or revoke the decision which caused the dissident shareholder to withdraw from the company. If in the ESM, the decision which provoked the shareholder to exit is withdrawn, then his right to retire is revoked.	
		Art. 69	La aprobación por la junta de accionistas de alguna de las materias que se indican más adelante, concederá al accionista disidente el derecho a retirarse de la sociedad, previo pago por aquélla del valor de sus acciones. (...) Considérase accionista disidente a aquel que en la respectiva junta se hubiere opuesto al acuerdo que da derecho a retiro, o que, no habiendo concurrido a la junta, manifieste su disidencia por escrito a la sociedad, dentro del plazo establecido en el artículo siguiente. (...)	**Law 18046**

			Los acuerdos que dan origen al derecho a retiro de la sociedad son: 1) La transformación de la sociedad; 2) La fusión de la sociedad; 3) La enajenación del 50% o más del activo social, en los términos referidos en el Nº 9) del artículo 67; 4) El otorgamiento de las cauciones a que se refiere el Nº11) del artículo 67; 5) La creación de preferencia para una serie de acciones o el aumento o la reducción de las ya existentes. En este caso, tendrán derecho a retiro únicamente los accionistas disidentes de la o las series afectadas; 6) El saneamiento de la nulidad causada por vicios formales de que adolezca la constitución de la sociedad o alguna modificación de sus estatutos que diere este derecho; 7) Los demás casos que establezcan la ley o sus estatutos, en su caso.	
		Art. 71	El directorio podrá convocar a una nueva junta que deberá celebrarse a más tardar dentro de los treinta días siguientes al vencimiento del plazo señalado en el artículo 70, a fin de que ésta reconsidere o ratifique los acuerdos que motivaron el ejercicio del derecho a retiro. Si en dicha junta se revocaren los mencionados acuerdos, caducará el referido derecho a retiro.	
Preemptive right to new issues	**1**	**SUMMARY**	Article 25 states the preemptive right of shareholders to buy new issues of stock.	
		Art. 25	Las opciones para suscribir acciones de aumento de capital de la sociedad y de debentures convertibles en acciones de la sociedad emisora, o de cualquiera otros valores que confieran derechos futuros sobre estas acciones, deberán ser ofrecidas, a lo menos por una vez, preferentemente a los accionistas a prorrata de las acciones que posean. En la misma proporción serán distribuidas las acciones liberadas emitidas por la sociedad. Este derecho es esencialmente renunciable y transferible. El derecho de preferencia de que trata este artículo deberá ejercerse o transferirse dentro del plazo de 30 días contado desde que se publique la opción en la forma y condiciones que determine el Reglamento.	**Law 18046**
% of share capital to call an ESM	**10%**	**SUMMARY**	According to article 58 (3), shareholders should own at least 10% of outstanding shares in order to call for an extraordinary shareholders meeting	

		Art. 58	Las juntas serán convocadas por el directorio de la sociedad. El directorio deberá convocar: (...) 3) A junta ordinaria o extraordinaria, según sea el caso, cuando así lo soliciten accionistas que representen, a lo menos, el 10% de las acciones emitidas con derecho a voto, expresando en la solicitud los asuntos a tratar en la junta; (...) (...	**Law 18046**
Mandatory Dividend	**30%**	**SUMMARY**	Article 79 states that a public company should distribute, annually, at least 30% of its net income as dividends. This principle is valid, unless the company has made a loss during that period or has accumulated losses from previous periods.	
		Art. 79	Salvo acuerdo diferente adoptado en la junta respectiva, por la unanimidad de las acciones emitidas, las sociedades anónimas abiertas deberán distribuir anualmente como dividendo en dinero a sus accionistas, a prorrata de sus acciones o en la proporción que establezcan los estatutos si hubieren acciones preferidas, a lo menos el 30% de las utilidades líquidas de cada ejercicio. En las sociedades anónimas cerradas, se estará a lo que determine en los estatutos y si éstos nada dijeren, se les aplicará la norma precedente. En todo caso, el directorio podrá, bajo la responsabilidad personal de los directores que concurran al acuerdo respectivo, distribuir dividendos provisorios durante el ejercicio con cargo a las utilidades del mismo, siempre que no hubieren pérdidas acumuladas.	**Law 18046**

Chile – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The winding up or liquidation law applies to companies and is contained in the bankruptcy law 18175 of 1982 (last amended in 2002). This law is complemented by law 19010 of 1990 (last amended in 1993) and by the Civil Code (Código Civil de Chile DFL-1 /2002). Restructuring is covered under the same bankruptcy law. Additionally, company law 18046 (Ley de Sociedades Anónimas 18046) provides information about the mandatory legal reserve. Congress is currently considering major changes to Law 18175 that, if approved, will increase the transparency of the restructuring process of companies and will strengthen the role of the Bankruptcy Superintendence.	
Restrictions on going into reorganisation	**1**	**SUMMARY**	Under article 169, the company and its creditors can sign a "Convenio", an extrajudicial agreement, which should be agreed upon by all creditors. A legally binding judicial agreement called 'Convenio Judicial Preventivo' can be signed by creditors (article 173). Secured creditors do not the have the right to vote in the creditors' assembly, unless they renounce their privileged status. As a result, non-secured creditors are given the opportunity to determine the viability of keeping the company as a going concern and thus to negotiate the repayment of their loans. If unsecured creditors were not given this protection, secured creditors could vote for the liquidation of the company in order to claim their collateral (articles 180 and 181).	

		ARTICULO 169	Antes de la declaración de quiebra podrá pactarse entre el deudor y los acreedores un convenio extrajudicial para solucionar sus obligaciones, con tal que se observen las siguientes reglas: 1.- Que el convenio sea aceptado por la unanimidad de los acreedores; 2.- Que el deudor haga una exposición del estado de sus negocios, conforme a su balance, si debiera llevar contabilidad, y conforme al inventario valorado de su activo y pasivo, si no debiere; 3.- Que en el acta de convenio se deje testimonio de haberse dado cumplimiento al requisito exigido en el número anterior, y 4.- Que un ejemplar del convenio y del balance o inventario suscrito por el deudor y sus acreedores sea protocolizado en la notaría del domicilio del deudor. Also relevant: Article 172: El acreedor que hubiere sido omitido en el convenio extrajudicial podrá aceptar el convenio y exigir que se cumpla también a su favor, o ejercitar las demás acciones que le correspondan, como si el convenio no existiere.	**Ley 18175 - Ley de Quiebras**
		ARTICULO 173	El convenio judicial puede ser de dos clases: preventivo o simplemente judicial. El convenio judicial preventivo es el que se propone con anterioridad a la declaración de quiebra. El convenio simplemente judicial es el que se propone durante el estado de quiebra. Las proposiciones de uno y otro deberán ser discutidas y aprobadas en junta de acreedores, y las que fueren aceptadas de otro modo, no tendrán valor alguno, salvo lo dispuesto para el convenio extrajudicial. Todas las disposiciones del presente párrafo son aplicables a ambos convenios, en cuanto no se opongan a su respectiva naturaleza, excepto las del artículo 204, y aquellas que se refieren exclusivamente al convenio judicial preventivo.	

		ARTICULO 180	El convenio se considerará aceptado cuando cuente con el consentimiento del fallido y reúna en su favor los votos de dos tercios o más de los acreedores concurrentes que representen las tres cuartas partes del total pasivo con derecho a voto, excluídos los acreedores privilegiados, hipotecarios, prendarios y los que gocen del derecho de retención, siempre que dichos acreedores no hayan tomado parte en el convenio; el cónyuge, los ascendientes y descendientes legítimos y naturales y los hermanos legítimos del fallido; y los socios o accionistas y los administradores de sociedades del fallido. Para obtener las mayorías a que se refiere el inciso precedente, se aplicará el procedimiento dispuesto en el artículo 112, incisos tercero y cuarto.	
		ARTICULO 181	Los acreedores privilegiados, hipotecarios, prendarios, anticréticos y los que gocen del derecho de retención podrán asistir a la junta y discutir las proposiciones de convenio. Los acreedores a que se refiere el inciso precedente, podrán también votar si renuncian los privilegios o preferencias de sus respectivos créditos. El mero hecho de votar importa de derecho esta renuncia. Si los acreedores de que habla el inciso primero renuncian sus privilegios o garantías hasta una determinada cantidad, podrán votar como acreedores comunes y conservarán su garantía o privilegio por la suma restante. Si los acreedores a que alude el presente artículo, hicieren uso del derecho que les confieren los incisos segundo y cuarto, sus créditos se incluirán en el pasivo, para los efectos del cómputo a que se refiere el artículo precedente por las sumas a que hubiere alcanzado la renuncia.	
No automatic Stay on Assets	**1**	**SUMMARY**	Under a convenio (article 177) there is no automatic stay on assets. If, however, creditors representing at least 51% of the outstanding liabilities of the company decide to give their support to the 'Convenio', then they will only be authorised to claim access to those assets bound to deteriorate, to suffer from an imminent decrease in value, or to require extra care to preserve their integrity. Article 177 bis states that under the conditions described in article 177, there is a stay on assets (even for secured creditors). This stay on assets will extend for 90 days from the date in which the judge instructed creditors to reconvene for the first time in a Creditors' Assembly.	

		ARTICULO 177	La tramitación de las proposiciones de cualquier convenio no embaraza el ejercicio de ninguna de las acciones que procedan en contra del deudor, no suspende los procedimientos de la quiebra o juicios pendientes, ni obsta a la realización de los bienes. Sin embargo, si el convenio simplemente judicial se presentare apoyado por a lo menos el 51% del total pasivo de la quiebra, el síndico sólo podrá enajenar los bienes expuestos a un próximo deterioro o a una desvalorización inminente o los que exijan una conservación dispendiosa.	**Ley 18175 - Ley de Quiebras**
		ARTICULO 177 bis	No obstante lo dispuesto en el inciso primero del artículo anterior, si la proposición de convenio judicial preventivo, se hubiere presentado con el apoyo de la mayoría de los acreedores que representen a lo menos el 51% del total del pasivo, sin excluir, para los efectos de este cálculo, a ninguna clase de acreedores, el deudor no podrá ser declarado en quiebra ni podrá procederse a la realización de sus bienes durante los noventa días siguientes a la notificación por aviso de la resolución en que el tribunal cite a los acreedores a junta para deliberar sobre dicha proposición. En el caso del inciso predecente, los acreedores privilegiados e hipotecarios no perderán sus preferencias, pero no podrán realizar los bienes del deudor durante el plazo de suspensión antes señalado, todo lo cual se entiende sin perjuicio de las medidas conservativas que se puedan impetrar. (...)	
Secured creditors first (paid)	**0**	**SUMMARY**	First Class Creditors' ('Acreedores de Primera Clase') are those who hold the highest priority for payment in the event of a liquidation (article 148). According to article 2472 of the Civil Code, this type of creditors include workers and government. Articles 3 and 11 of Law 19010 are quoted because they are mentioned in article 148 of Law 18175.	
		ARTICULO 148	El síndico hará el pago de los créditos privilegiados de la primera clase que no hubieren sido objetados, en el orden de preferencia que les corresponda, tan pronto como haya fondos para ello; reservará lo necesario para el pago de los créditos de la misma clase, cuyo monto o privilegio esté en litigio, y para la atención de los gastos subsiguientes de la quiebra. Los créditos a que se refieren los números 1 y 4 del artículo 2472 del Código Civil no necesitarán de verificación. Los créditos mencionados en el N° 5 del [artículo 2472 del Código Civil] serán pagados con cargo a los primeros fondos del fallido de que se pueda disponer, administrativamente, siempre que existan antecedentes documentarios que los justifiquen y aun antes de su verificación.	**Ley 18175 - Ley de Quiebras**

			Igualmente, se pagarán sin necesidad de verificación previa y en los términos establecidos en el inciso anterior, los créditos por las indemnizaciones convencionales de origen laboral hasta el límite de un equivalente a un mes de remuneración por cada año de servicio y fracción superior a seis meses, y por las indemnizaciones legales del mismo origen que sean consecuencia de la aplicación de las causales señaladas en el artículo 3° de la Ley 19.010. Las restantes indemnizaciones de origen laboral así como la que sea consecuencia del reclamo del trabajador de conformidad a la letra b) del artículo 11 de la Ley 19.010, se pagarán con el solo mérito de sentencia judicial ejecutoriada que así lo ordene. Al efectuar los pagos preceptuados en los incisos tercero y cuarto, el síndico cuidará que el monto del saldo del activo sea suficiente para asegurar el pago de los créditos de mejor derecho. En la forma establecida en el inciso primero de este artículo se hará, en seguida, el pago de los créditos de la cuarta clase. Los créditos privilegiados de la primera clase preferirán a todo otro crédito preferente o privilegiado establecido por leyes especiales.	

		Art. 2472	La primera clase de créditos comprende los que nacen de las causas que en seguida se enumeran: 1. Las costas judiciales que se causen en interés general de los acreedores; 2. Las expensas funerales necesarias del deudor difunto; 3. Los gastos de enfermedad del deudor; 4. Los gastos en que se incurra para poner a disposición de la masa los bienes del fallido, los gastos de administración de la quiebra, de realización del activo y los préstamos contratados por el síndico para los efectos mencionados; 5. Las remuneraciones de los trabajadores y las asignaciones familiares; 6. Las cotizaciones adeudadas a organismos de seguridad social (...) asimismo, los créditos del fisco en contra de las entidades administradoras de fondos de pensiones por los aportes que aquél hubiere efectuado (...); 7. Los artículos necesarios de subsistencia suministrados al deudor y su familia durante los últimos tres meses; 8. Las indemnizaciones legales y convencionales de origen laboral que les correspondan a los trabajadores (...); 9. Los créditos del fisco por los impuestos de retención y de recargo.	**Codigo Civil**
		Artículo 3	(...) el empleador podrá poner término al contrato de trabajo invocando como causal las necesidades de la empresa, establecimiento o servicio, tales como las derivadas de la racionalización o modernización de los mismos, bajas en la productividad, cambios en las condiciones del mercado o de la economía, que hagan necesaria la separación de uno o más trabajadores, y la falta de adecuación laboral o técnica del trabajador. En el caso de los trabajadores que tengan poder para representar al empleador, tales como gerentes, subgerentes, agentes o apoderados, siempre que, en todos estos casos, estén dotados, a lo menos, de facultades generales de administración, (...) el contrato de trabajo podrá, además, terminar por desahucio escrito del empleador, el que deberá darse con treinta días de anticipación, a lo menos, con copia a la Inspección del Trabajo respectiva. (...) Regirá también esta norma tratándose de cargos o empleos de la exclusiva confianza del empleador, cuyo carácter de tales emane de la naturaleza de los mismos. (...)	**Ley 19010**

		Artículo 11	Si el contrato terminare por aplicación de la causal del inciso primero del artículo 3 de esta ley, se observarán las reglas siguientes: (...) b) Si el trabajador estima que la aplicación de esta causal es improcedente, y no ha hecho aceptación de ella del modo previsto en la letra anterior, podrá recurrir al tribunal mencionado en el artículo precedente, en los mismos términos y con el mismo objeto allí indicado. Si el Tribunal rechazare la reclamación del trabajador, éste sólo tendrá derecho a las indemnizaciones señaladas en los artículos 4, inciso cuarto, y 5, incisos primero o segundo, según corresponda, con el reajuste indicado en el artículo 15, sin intereses.	
Management Replaced	**0**	**SUMMARY**	There is no direct reference to an officer appointed by the court to run the operations of the company. Article 200 states the functions of the 'interventor', a supervisor of the affairs of the company during the process of reorganisation, who is not directly responsible for running the company. Rather, under item 5 of article 200, this supervisor has the responsibility to inform creditors about any issue that has come to his attention regarding the debtor's administration of the business. In article 203 it is stipulated that the old management stays. This article states that if the debtor [during the time it is under the terms of the 'convenio'] is found responsible for the further deterioration of the business, then the supervisor (or interventor) will have the power to enforce a more strict intervention in the company affairs than those originally agreed under the terms of the 'convenio'. This supervisor also holds the authority to call off the 'convenio' if creditors representing an absolute majority of all outstanding liabilities ask him to do so.	
		ARTICULO 199	El deudor quedará sujeto a intervención hasta que haya cumplido el convenio, salvo que en éste se estipule lo contrario. Actuará como interventor el síndico titular en el convenio simplemente judicial y el síndico designado por el tribunal en el convenio judicial preventivo.	**Ley 18175 - Ley de Quiebras**

		ARTICULO 200	Las funciones del interventor serán las siguientes, a menos que se acuerde otra cosa: (...) 5.- Rendir trimestralmente la cuenta de su actuación y la de los negocios del deudor, y presentar las observaciones que le merezca la administración de este último. (...) 6.- Pedir al tribunal que deba conocer o que haya conocido de la quiebra que cite a junta de acreedores, siempre que lo crea conveniente o cuando se lo pida alguno de ellos para tratar asuntos de interés común, y 7.- Representar judicial y extrajudicialmente a los acreedores para llevar a efecto los acuerdos que tomen en forma legal. Article 202 is also relevant: El interventor podrá siempre impetrar las medidas precautorias que sean necesarias para resguardar los intereses de los acreedores, sin perjuicio de los acuerdos que éstos puedan adoptar.	
		ARTICULO 203	Si el deudor hubiere agravado el mal estado de sus negocios en forma que haga temer un perjuicio para los acreedores, podrá ser sometido a una intervención más estricta que la pactada o resolverse el convenio, a solicitud de acreedores que representen la mayoría absoluta del pasivo del convenio.	
Legal Reserve	**0**	**SUMMARY**	There is no reference in the law to a mandatory legal reserve. Article 80 makes reference to a procedure for cases when there is an excess in net income even after the distribution of dividends. In such case, the remaining amount can be capitalised, either through the issuance of new shares, or through an increment in value of the existing shares. However, this procedure is possible only by modifying the articles of incorporation of the company.	
		Art. 80	La parte de las utilidades que no sea destinada por la junta a dividendos pagaderos durante el ejercicio, ya sea como dividendos mínimos obligatorios o como dividendos adicionales, podrá en cualquier tiempo ser capitalizada, previa reforma de estatutos, por medio de la emisión de acciones liberadas o por el aumento del valor nominal de las acciones, o ser destinada al pago de dividendos eventuales en ejercicios futuros. (...)	**Ley 18046 - Ley de Sociedades Anónimas**

China – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Two type of shares are traded in Chinese exchanges - A shares and B shares. A shares are for domestic investors only. Prior to 1 December 2002, only B shares were available to foreign investors. B Shares are foreign-invested shares issued domestically by Chinese companies and are also known as Renminbi Special Shares. B Shares are issued in the form of registered shares and carry a face value denominated in Renminbi. B Shares are subscribed and traded in foreign currencies and are listed and traded in securities exchanges inside China. On December 1 2002, China launched a qualified foreign institutional investor (QFII) scheme that allows foreign investors to invest in domestic A shares and bond markets for the first time. According to China Securities Regulator (CSRC), 'qualified investors' include overseas fund management companies, insurance companies, securities houses and other asset managers. Shareholder rights in China are provided by the Company Law 1993 (amended 1999).	
One share-one vote	**1**	**SUMMARY**	The Chinese Company Law entitles shareholders to have one share per one vote.	
		Article 106	Shareholders attending a shareholders general meeting shall have the right to one vote for each share held. A resolution of the shareholders general meeting must be passed by more than one half of the voting rights held by the shareholders present at the meeting. Resolutions on the merger, division or dissolution of the company adopted by the shareholders general meeting must require more than two-thirds of the voting rights held by the shareholders present at the meeting.	**Company Law 1993, amended 1999, w.e.f. 25 Dec. 1999**
		Article 130	The shares shall be issued on the basis of the principle of being public, fair and impartial [sic]. Shares of the same class must have the same rights and benefits.	
Proxy by mail	**0**	**SUMMARY**	Laws in China provide two methods for shareholders' voting at the shareholders meetings: one is shareholders are present at the shareholders meetings in person and vote themselves; the other is for shareholders to appoint a proxy to attend and vote on their behalf. Proxy voting by mail is not allowed.	

		Article108	A shareholder may entrust a proxy to attend the shareholders general meeting on his behalf. The proxy shall present the shareholders power of attorney to the company and exercise voting rights within the scope of authorization.	**Company Law 1993, amended 1999, w.e.f. 25 Dec. 1999**
Shares not blocked before meeting	**1**	**SUMMARY**	There is a restriction on bearer shares, but not on registered shares. However, note that, at present there are NO bearer shares in Chinese listed companies. There is no requirement in the law that holders of registered shares should deposit their shares before the meeting.	
		Article 105	Holders of bearer shares attending the shareholders general meeting shall deposit their share certificates with the company for the period from five days prior to the holding of the meeting until the end of the meeting.	**Company Law 1993, amended 1999, w.e.f. 25 Dec. 1999**
Cumulative voting/Proportional Representation	**0**	**SUMMARY**	There is no statutory requirement for companies to allow cumulative voting or proportional representation. Nevertheless, according to the "Code of Corporate Governance for Listed Companies in China", a listed company with thirty percent or more shares held by a proprietary shareholder should adopt the cumulative voting system. Other listed companies are encouraged to adopt the cumulative voting system, as suggested in Art.31 of "Code of Corporate Governance for Listed Companies in China".	
		Article 31	In the course of the election of directors, the opinions of the small and medium shareholders shall be reported fully. The shareholders' meeting, in the course of the election of directors, shall positively carry out the accumulated voting system. The listed company whose 30% or more shares are held by its proprietary shareholder shall adopt the accumulated voting system.	**Code of Corporate Governance for Listed Companies in China, w.e.f. 7 Jan 2002**
Oppressed minorities mechanism - Judicial venue/Obligatory share repurchase	**1**	**SUMMARY**	According to the Company Law, shareholders have the right to challenge the decisions or actions of the management in the people's courts.	
		Article 111	If the resolutions of a meeting of shareholders or the board of directors have violated the law, administrative decrees or encroached upon the legitimate rights of shareholders, the shareholders concerned have the rights to sue at the people's courts, to demand that such acts of violation or infringement be stopped.	**Company Law 1993, amended 1999, w.e.f. 25 Dec. 1999**

Preemptive rights	**0**	**SUMMARY**	The Law does not require that existing shareholders be given preemptive rights. The company has the right to decide if the existing shareholders should have the first opportunity to buy new issues of stock.	**Company Law 1993, amended**
		Article 33	Shareholders shall draw dividends in proportion to their capital contributions. Where a company increases capital, the existing shareholders may have priority in subscription for new shares.	**1999, w.e.f. 25 Dec. 1999**
		Article 20	To issue new shares, listed companies shall meet the conditions provided for in the Company Law for the issuance of new shares. Such shares may be issued in the form of a public offer or be rationed among existing shareholders.	**Securities Law, w.e.f. July 1,1999**
Percentage share capital to call an ESM <10%	**10%**	**SUMMARY**	Shareholders holding ten percent or more of the company's shares can request to convene an extraordinary shareholders meeting.	
		Article 104	An interim shareholders general meeting shall be convened within two months if any of the following situations occurs: (1)... (2)... (3) if shareholders holding ten percent or more of the company's shares request to convene a shareholders meeting;	**Company Law 1993, amended 1999, w.e.f. 25 Dec. 1999**
Mandatory dividend	**0**	**SUMMARY**	In China, a company has no legal duty to distribute a fraction of its net income as dividends among ordinary shareholders. Companies decide in accordance with their financial condition whether to distribute dividends (including stock dividends and cash dividends) through their shareholders meeting.	

China – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Creditor protection measures are provided for by several laws in China. The Enterprise Bankruptcy Law (trial implementation, w.e.f. 1 Nov 1988) is applicable to state-owned enterprises (SOE) only and the Law is widely regarded as outdated and in need of major revision. China's lawmakers have been sitting on an updated version of the 1988 bankruptcy law for several years. While the new law would help to clarify the rules in relation to the private sector and larger corporations, lawmakers are concerned that expanding the law beyond state-sector firm's risks eroding some of the protection provided to workers. In an attempt to buy some breathing space and make the current system more workable, China's Supreme Court handed down a new interpretation of the existing bankruptcy law, which from September 1, 2002 will allow judges to expedite cases before the bench. The judicial interpretation also takes into account China's civil procedures law, which governs bankruptcies in the private sector that are not covered by the state sector-specific bankruptcy law. The Law of Civil Procedure of the People's Republic of China also prescribes procedures for liquidation of a company.	**c.f. Sources: DOW JONES INTERNATIONAL NEWS 26/08/2002**
Restrictions on going into reorganisation	**1**	**SUMMARY**	According to the Enterprise Bankruptcy Law, there are no restrictions in filing for a "reorganisation", However, if a company files for reorganisation, it has to submit a draft settlement agreement (a reorganisation plan). The plan has to be passed by resolution in a creditors' meeting, which requires more than 2/3 of votes from the creditors.	
		Article 18	After an application for reorganization is submitted, the enterprise shall propose a draft settlement agreement to the creditors' meeting. The settlement agreement shall stipulate the period in which the enterprise shall repay the debts.	**The Enterprise Bankruptcy Law (trial implementation, w.e.f. 1 Nov 1988)**
		Article15	The functions and powers of the creditors' meeting are: (1)...; (2) to discuss and adopt a draft settlement agreement; and (3) to discuss and adopt a plan for the disposition and distribution of bankruptcy property.	

		Article16	Resolutions of the creditors meeting are adopted by a majority of creditors with the right to vote present at the meeting; and the amount of their claims must comprise more than half of the total amount of claims that are not secured with property; however, with respect to a resolution adopting a draft settlement agreement, such amount must comprise more than two-thirds of the total amount of claims that are not secured with property.	
No automatic stay on assets	**0**	**SUMMARY**	During the bankruptcy and reorganisation processes, no creditor can enforce his rights.	
		Article 11	After the people's court has accepted a bankruptcy case, other civil enforcement proceedings against the property of the debtor must be suspended.	**The Enterprise Bankruptcy Law (trial implementation, w.e.f. 1 Nov 1988)**
		Article 30	During the reorganization process, Article 11 of Bankruptcy Law 1988 applies.	**Interpretation of bankruptcy law and regulations on bankruptcy procedures, People's Supreme Court, Fa Shi 23, 2002, w.e.f Sep.1, 2002**
Secured creditors first (paid)	**1**	**SUMMARY**	Secured creditors have the right to receive priority payments with respect to their securities.	
		Article 32	With respect to claims secured by property that are established before bankruptcy is declared, the creditors enjoy the right to receive repayment with priority with respect to such security.	**The Enterprise Bankruptcy Law (trial implementation, w.e.f. 1 Nov 1988)**
		Article 203	Banks and other creditors enjoy higher priority in impounding mortgages or other securities from insolvent debtors. If the value of the mortgage or other securities is greater than the debt, the portion in excess of the debt belongs to the assets for bankruptcy debt repayment.	

		Article 204	*The assets for bankruptcy debt repayment* shall be used in paying the bankruptcy fees first, and the remainder shall be used in repaying debts in the following order: (1) Wages and labor insurance expenses owed by the bankruptcy enterprise to workers and staff members; (2) Unpaid taxes; and (3) Other bankruptcy creditors. If the bankruptcy assets are not enough to repay all the debts in the order mentioned above, they shall be distributed proportionally.	
Management replaced (in reorganisation)	**0**	**SUMMARY**	There is no clear requirement in the Chinese laws that management be replaced in a reorganisation. According to Article 28 of "Interpretation of bankruptcy law and regulations on bankruptcy procedures" issued by the People's Supreme Court: * For SOEs, the reorganisation is to be supervised by the firm's superior departments in charge. (Art. 20, Bankruptcy Law 1988) * For non-SOE firms, the management during reorganisation is decided by the Shareholders meeting [Art. 28, Fa Shi 23, 2002].	
		Article 20	The reorganization of the enterprise shall be supervised by its superior departments in charge. […]	**The Enterprise Bankruptcy Law (trial implementation, w.e.f. 1 Nov 1988)**
		Article 28	With respect to an enterprise for which the creditors apply for bankruptcy, if the enterprise is a SOE, according to Chapter IV of "Enterprise Bankruptcy Law", the superior departments in charge of the enterprise that is the subject of the bankruptcy application may apply to carry out reorganization of the enterprise. The application should be made before the debtor is declared bankrupt by the court. With respect to an enterprise which has no superior departments in charge (i.e., non-SOE), shareholders may pass a resolution in the shareholders' meeting to apply for reorganization. The shareholders' meeting should appoint the reorganizer(s) to be responsible for the reorganization.	**Interpretation of bankruptcy law and regulations on bankruptcy procedures, People's Supreme Court [Fa Shi 23, 2002, w.e.f Sep.1, 2002].**

Legal reserve required as a % of capital	**50%**	**SUMMARY**	A company is required to pay ten percent of annual profit after taxation to its statutory common reserve fund (fa ding gong ji jin) and ten percent to its statutory common welfare fund (fa ding gong yi jin), until the common reserve fund is fifty percent of the registered capital of the company (Company Law, Article 177). The statutory common welfare fund retained by a company can only be used for the collective welfare of the company's staff and workers.	
		Article177	When a company distributes the annual after-tax profit, it shall allocate ten percent of its profits to its statutory common reserve fund and another five to ten percent to its statutory common welfare fund. Where the accumulated amount of the statutory common reserve fund has exceeded fifty percent of the registered capital of the company, no further allocation is necessary. Where the statutory common reserve fund is insufficient to make up the company's losses of the previous fiscal year, the company shall apply its annual after-tax profits to making up its losses before allocation such profits, in accordance with provisions of the preceding paragraph, to the statutory common reserve fund and statutory common welfare fund. After making its allocation to the statutory common reserve fund from the company's after-tax profits, the company may, upon resolution made by the shareholders meeting, make allocations to the discretionary common reserve fund.	**Company Law 1993, amended 1999, w.e.f. 25 Dec. 1999**
		Article179	A company's common reserve fund shall be used to make up the company's losses, to expand the production and operation of the company or to increase the capital of the company by means of conversion. If a joint stock limited company converts its common reserve fund into capital upon a resolution made by the shareholders general meeting, it shall issue new shares in proportion to the original shares held by the shareholders or increase the original par value of each share. However, when the statutory common reserve fund is converted into its capital, the remaining amount of the statutory common reserve fund shall not be less than twenty five percent of the registered capital.	
		Article180	The statutory common welfare fund retained by a company shall be used for the collective welfare of the company's staff and workers.	

Colombia – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The main law governing the securities market in Colombia is the Codigo de Comercio de Colombia/1971 (Last Modified in 1997). Law 222/1995 upgrades Book II of the 'Código de Comercio' and presents a new regime for reorganisation proceedings. It was last amended in 2000.	
One share -one vote	**0**	**SUMMARY**	There is no mention of the principle of one vote per share. Each share confers to its owner the right to attend and to vote at the general assembly (article 379). Under the "Codigo de Comercio", there are two types of shares, ordinary and preferential (article 381). Paragraph one of article 381 states that the rights of ordinary shares are conferred under article 379.	
		Article 379	Cada acción conferirá a su propietario los siguientes derechos: 1. El de participar en las deliberaciones de la asamblea general de accionistas y votar en ella	**Codigo de Comercio de Colombia**
		Article 381	Las acciones podrán ser ordinarias o privilegiadas. Las primeras conferirán a sus titulares los derechos esenciales consagrados en el artículo 379; (...)	
Proxy by Mail allowed	**0**	**SUMMARY**	Article 184 gives the shareholder the right to appoint a proxy to represent him in a shareholders meeting. Article 20 refers to a special circumstance in which decisions taken by the shareholders meeting or the board of directors requires that ALL members cast their vote in writing. However, this is not the spirit of 'proxy by mail', an idea that encompasses the right of any member who is unable or unwilling to be physically present at the meeting, to cast his vote through the mail.	
		ART. 184	Todo socio podrá hacerse representar en las reuniones de la junta de socios o asamblea mediante poder otorgado por escrito, en el que se indique el nombre del apoderado, la persona en quien éste puede sustituirlo, si es del caso, la fecha o época de la reunión o reuniones para las que se confiere y los demás requisitos que se señalen en los estatutos.	**Ley Número 222 de 1995**

		ART. 20	Otro mecanismo para la toma de decisiones. Serán válidas las decisiones del máximo órgano social o de la junta directiva cuando por escrito, todos los socios o miembros expresen el sentido de su voto. En este evento la mayoría respectiva se computará sobre el total de las partes de interés, cuotas o acciones en circulación o de los miembros de la junta directiva, según el caso. Si los socios o miembros hubieren expresado su voto en documentos separados, éstos deberán recibirse en un término máximo de un mes, contado a partir de la primera comunicación recibida. El representante legal informará a los socios o miembros de junta el sentido de la decisión, dentro de los cinco días siguientes a la recepción de los documentos en los que se exprese el voto.	
Shares not blocked before meeting	**1**	**SUMMARY**	There is no mention in the law of shares being blocked from trading during the days before or after a general meeting.	**Codigo de Comercio de Colombia / Ley Número 222 de 1995**
Cumulative voting/ Proportional representation	**0**	**SUMMARY**	These is no mention of either cumulative voting or of proportional representation in the law. Rather, article 436 states that directors are elected through a method of voting known as 'Electoral Quotient' ('Cociente Electoral'). Article 197 explains how this method of election works: candidates need to belong to a list. The 'Electoral Quotient' is determined by dividing the total number of valid cast votes by the number of seats to the Board of Directors that need to be renewed. Each list will be allotted a number of seats to this Board depending on the number of times that the 'Quotient' fits into the number of cast votes belonging to members of that list. If there are still seats to be assigned, then the party with the largest 'residue' will get to choose another of its candidates. If there is a draw in residues, then the candidate will be chosen by lottery. Through this method of voting, majorities are given absolute priority to choose their own candidates.	
		ARTICULO 436	ELECCION DE LOS PRINCIPALES Y SUPLENTES DE LA JUNTA DIRECTIVA- PERIODO-REMOCION Los principales y los suplentes de la junta serán elegidos por la asamblea general, para períodos determinados y por cuociente electoral, sin perjuicio de que puedan ser reelegidos o removidos libremente por la misma asamblea.	**Código de Comercio de Colombia**

		ARTICULO 197	ELECCION DE JUNTA O COMISION-CUOCIENTE ELECTORAL>. Siempre que en las sociedades se trate de elegir a dos o más personas para integrar una misma junta, comisión o cuerpo colegiado, se aplicará el sistema de cuociente electoral. Este se determinará dividiendo el número total de los votos válidos emitidos por el de las personas que hayan de elegirse. El escrutinio se comenzará por la lista que hubiere obtenido mayor número de votos y así en orden descendente. De cada lista se declararán elegidos tanto nombres cuantas veces quepa el cuociente en el número de votos emitidos por la misma, y si quedaren puestos por proveer, éstos corresponderán a los residuos más altos, escrutándolos en el mismo orden descendente. En caso de empate de los residuos decidirá la suerte.	
Oppressed Minorities (Judicial Venue/ Obligatory Share Repurchase)	**1**	**SUMMARY**	Shareholders have the right to withdraw if a transformation, merger or disposal of assets imposes greater responsibilities on them or if their rights would be negatively affected by such decision (article 12). If the dissenting shareholder exercises his right to retire, other shareholders will then have the right to purchase those shares belonging to him. When there are not enough interested buyers, the company will be required to repurchase his remaining shares but only if there are enough company funds available, either from its net earnings or from a special reserve constituted for this purpose.	
		ART. 12	Ejercicio del derecho de retiro. Cuando la transformación, fusión o escisión impongan a los socios una mayor responsabilidad o impliquen una desmejora de sus derechos patrimoniales, los socios ausentes o disidentes tendrán derecho a retirarse de la sociedad. En las sociedades por acciones también procederá el ejercicio de este derecho en los casos de cancelación voluntaria de la inscripción en el registro nacional de valores o en bolsa de valores. PAR.—Para efectos de lo dispuesto en el presente artículo se entenderá que existe desmejora de los derechos patrimoniales de los socios, entre otros, en los siguientes casos: 1. Cuando se disminuya el porcentaje de participación del socio en el capital de la sociedad. 2. Cuando se disminuya al valor patrimonial de la acción, cuota o parte de interés o se reduzca el valor nominal de la acción o cuota, siempre que en este caso se produzca una disminución de capital. 3. Cuando se limite o disminuya la negociabilidad de la acción.	**Ley Número 222 de 1995**

		ART. 15	Opción de compra. Dentro de los cinco días siguientes a la notificación del retiro, la sociedad ofrecerá las acciones, cuotas o partes de interés a los demás socios para que éstos las adquieran dentro de los quince días siguientes, a prorrata de su participación en el capital social. Cuando los socios no adquieran la totalidad de las acciones, cuotas o partes de interés, la sociedad, dentro de los cinco días siguientes, las readquirirá siempre que existan utilidades líquidas o reservas constituidas para el efecto.	
Preemptive right to new issues	**1**	**SUMMARY**	Article 388 protects the preemptive right of shareholders to purchase new shares. This right may be waived either by the company bylaws, or by general consent from the shareholders meeting.	
		Article 388	Los accionistas tendrán derecho a suscribir preferencialmente en toda nueva emisión de acciones, una cantidad proporcional a las que posean en la fecha en que se apruebe el reglamento. (...) Por estipulación estatutaria o por voluntad de la asamblea, podrá decidirse que las acciones se coloquen sin sujeción al derecho de preferencia, pero de esta facultad no se hará uso sin que ante la superintendencia se haya acreditado el cumplimiento del reglamento. NOTA: La intervención de la superintendencia a que hace referencia este artículo únicamente está prevista, a partir de la vigencia de la Ley 222 de 1995, cuando se trate de acciones con dividendo preferencial o de acciones privilegiadas de las sociedades vigiladas. Pero si se trata de sociedades controladas, las funciones de la superintendencia siguen vigentes para toda colocación de acciones. [§ 2297] DOCTRINA.—Derecho de preferencia en la suscripción de acciones. "Del contenido de esta norma (art. 388), se desprende en relación con el derecho de preferencia, que la suscripción puede realizarse de dos modos, a saber: a) Con sujeción al derecho de preferencia, evento en el cual los suscriptores serán exclusivamente los accionistas que figuren inscritos en el libro de registro y gravamen de acciones en la fecha en que se produzca el aviso de oferta, y b) Sin sujeción al derecho de preferencia, situación que se presenta bien sea porque los estatutos de la sociedad así lo prevean, o por la renuncia que del mencionado derecho efectúen los socios reunidos en asamblea general. A su vez, la renuncia puede ser determinada, es decir, a favor de ciertas y determinadas personas, sean accionistas o no, indeterminada o genérica, cuando se dispone que se realice la oferta a terceros o ésta sea pública. De todas maneras, en esta circunstancia no existe derecho preferente a la suscripción, sino una expectativa a suscribir, que se convierte en derecho a la suscripción en el momento en que se realice la respectiva oferta". (Supersociedades, Ofi. EX-21178, nov. 13/86).	**Codigo de Comercio de Colombia**

% of share capital to call an ESM	**20%**	**SUMMARY**	According to article 423 of the Codigo de Comercio, shareholders can call an extraordinary shareholders meeting if they own at least twenty percent of outstanding shares.	
		Article 423	REUNIONES EXTRAORDINARIAS Las reuniones extraordinarias de la asamblea se efectuarán cuando lo exijan las necesidades imprevistas o urgentes de la compañía, por convocación de la junta directiva, del representante legal o del revisor fiscal. El superintendente podrá ordenar la convocatoria de la asamblea a reuniones extraordinarias o hacerla, directamente, en los siguientes casos: 1. (...) 2. (...) 3. Por solicitud del número plural de accionistas determinado en los estatutos y, a falta de esta fijación, por el que represente no menos de la quinta parte de las acciones suscritas. (...). [§ 2487] JURISPRUDENCIA.— (...) En efecto, la disposición expresa: ... En los dos primeros casos el Superintendente debe verificar previamente que la asamblea no se reunió en las oportunidades señaladas en la ley o en los estatutos o que existen graves irregularidades en la administración. En la tercera hipótesis, la simple solicitud del número plural de accionistas que determinen los estatutos; en defecto de prescripción estatutaria, la petición de un número de accionistas que represente no menos de la quinta parte de las acciones suscritas, obliga a la Superintendencia a hacer la convocatoria, sin que pueda calificar la conveniencia o inconveniencia de la solicitud, pues en este caso la función de la Superintendencia se reduce a servir de medio de instrumento o de vehículo para darle eficacia al derecho que la ley o los estatutos le confieren a una determinada proporción de asociados". (C.E, Sec. Primera, Sent. nov. 8/78, Exp. 2781. M.P. Carlos Galindo Pinilla).	**Codigo de Comercio de Colombia**
Mandatory Dividend	**50%**	**SUMMARY**	Article 155 states that the minimum dividend should be agreed at the shareholders general assembly. If no agreement can be reached, then the minimum percentage of net income to be distributed should be fifty percent. Article 454 states that when the legal reserve is more than one hundred percent of the subscribed capital, the percentage of net income to be distributed as dividend should be increased to seventy percent.	

		ART. 155	Modificado. Ley 222 de 1995, Art. 240. Mayoría para la distribución de utilidades. Salvo que en los estatutos se fijare una mayoría decisoria superior, la distribución de utilidades la aprobará la asamblea o junta de socios con el voto favorable de un número plural de socios que representen, cuando menos, el 78% de las acciones, cuotas o partes de interés representadas en la reunión. Cuando no se obtenga la mayoría prevista en el inciso anterior, deberá distribuirse por los menos el 50% de las utilidades líquidas o del saldo de las mismas, si tuviere que enjugar pérdidas de ejercicios anteriores.	**Codigo de Comercio de Colombia**
		ART. 454	REPARTO DEL 70% DE LAS UTILIDADES Si la suma de la reserva legal, estatutaria u ocasionales excediere del ciento por ciento del capital suscrito, el porcentaje obligatorio de utilidades líquidas que deberá repartir la sociedad conforme al artículo 155, se elevará al 70% (§ 1020). [§ 2641] DOCTRINA.—Imperatividad de lo establecido en el presente artículo. "La ley comercial tiende a tutelar el derecho esencial del accionista o socio de sociedades comerciales consagrado en el artículo 379, ordinal 2º del Código de Comercio. Cuando ordena distribuir un mínimo del 50% de las utilidades como dividendo y dispone igualmente que en el caso de manifiesta necesidad y conveniencia para la sociedad, el interés del accionista o socio, de participar en su oportunidad de las utilidades, puede ceder en provecho del interés social como medida de previsión. Pero cuando la sociedad se encuentra en una situación de bonanza económica tal que la suma de sus reservas legal, estatutarias u ocasionales iguala o excede las cifras de capital suscrito, el legislador consideró que no hay lugar a exigirle al accionista o socio un mayor sacrificio, y la sociedad está obligada a repartir el 70% de las utilidades disponibles". (Supersociedades, Ofi. 15387, ago. 29/77).	
		ART. 379	DERECHOS DEL ACCIONISTA Cada acción conferirá a su propietario los siguientes derechos: 1. (...); 2. El de recibir una parte proporcional de los beneficios sociales establecidos por los balances de fin de ejercicio, con sujeción a lo dispuesto en la ley o en los estatutos;	

Colombia – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Winding up or liquidation applies to companies and is contained in Law 222 dated 1995. Corporate rescue, i.e. restructuring, is covered under law 550 dated 1999. This law provides a regime that facilitates the reactivation of the business sector and reorganisation processes. It was last amended in 2002. Additionally, the Colombian Commercial Code (Código de Comercio de Colombia) provides information about the mandatory legal reserve.	
Restrictions on going into reorganisation	**1**	**SUMMARY**	There is an ambiguity in the law about the right of creditors to give their approval to a reorganisation agreement. The law gives creditors the right to reject a reorganisation agreement; however, it is possible for shareholders to work in conjunction with both workers and friendly financial institutions and thus limit other creditors' right to stop the reorganisation proceedings from taking place. Article 29 states that for a reorganisation agreement to be considered valid, it needs to be agreed by the votes of a plural majority of creditors, whose members should represent the internal or the external creditors, or both, and whose total votes should amount to at least the absolute majority of total cast valid votes. There are five types of creditors: Internal Creditors a. Shareholders External Creditors b. Workers and pensioners c. Public institutions and social security institutions d. Financial institutions e. Other external creditors.	

			Absolute majority Should be comprised of at least three of the five clases of creditors. In cases where only three clases of creditors exist, the absolute majority should be made up of the votes of at least two of those three clases. In cases where only two clases of creditors exist, the absolute majority should be made up of the votes from both of those clases of creditors. In general, if any external creditor class, or if different classes of creditors who belong to a single owner are in a position to cast votes that amount to an absolute majority, then for the reorganisation decision to be valid, it should also receive the support of the votes of any other class of creditor whose valid votes should amount to at least twenty five percent of the total valid cast votes.	
		ART. 29	Celebración de los acuerdos Los acuerdos de reestructuración se celebrarán con el voto favorable de un número plural de acreedores internos o externos que representen por lo menos la mayoría absoluta de los votos admisibles. Dicha mayoría deberá conformarse con votos provenientes de por lo menos tres (3) de las clases de acreedores previstas en el presente artículo. En caso de que sólo existan y concurran tres (3) clases de acreedores, la mayoría deberá conformarse con votos provenientes de acreedores pertenecientes a dos (2) de las clases de acreedores existentes, siempre y cuando se obtenga la mayoría absoluta de votos admisibles; y de existir sólo dos clases de acreedores, la mayoría exigida por la ley deberá conformarse con votos provenientes de ambas clase de acreedores, con sujeción, en todo caso, a lo dispuesto en el siguiente inciso.	**Law 550 of 1999**

			Cuando un solo acreedor externo de una misma clase, o varios acreedores externos de una o varias clases de acreedores, pertenecientes a una misma organización empresarial declarada o no como grupo para efectos de la ley comercial, emitan votos en un mismo sentido que equivalgan a la mayoría absoluta o más de los votos admisibles, para la aprobación o improbación correspondiente se requerirá, además, del voto emitido en el mismo sentido por un número plural de acreedores de cualquier clase o clases que sea igual o superior al veinticinco por ciento (25%) de los votos admisibles. Para efectos del presente artículo, se entenderá que existen las siguientes cinco (5) clases de acreedores: a) Los acreedores internos; b) Los trabajadores y pensionados; c) Las entidades públicas y las instituciones de seguridad social; d) Las instituciones financieras y demás entidades sujetas a la inspección y vigilancia de la Superintendencia Bancaria de carácter privado, mixto o público, y e) Los demás acreedores externos.	
No automatic Stay on Assets	**0**	**SUMMARY**	Creditors are blocked from having access to their securities for a period of four months from the moment that the 'promotor' or supervisor assigned by the court officially establishes the beginning of the reorganisation proceeds. According to article 14 this effectively happens once the 'promotor' establishes the creditors' right to cast their vote in the 'Concordato' (reorganisation proceeds). The secured creditor’s rights to access to his secured asset are also limited in cases where the owner of the collateralised asset is a natural person who can show proof that the asset under consideration has been his home for at least two years prior to the initiation of the reorganisation proceedings.	

		ART. 14	Efectos de la iniciación de la negociación A partir de la fecha de iniciación de la negociación, y hasta que hayan transcurrido los cuatro (4) meses previstos en el artículo 27 de esta ley, no podrá iniciarse ningún proceso de ejecución contra el empresario y se suspenderán los que se encuentren en curso, quedando legalmente facultados el promotor y el empresario para alegar individual o conjuntamente la nulidad del proceso o pedir su suspensión al juez competente, para lo cual bastará que aporten copia del certificado de la cámara de comercio en el que conste la inscripción del aviso. (...) PAR. 1º— Dentro de los diez (10) días siguientes a la iniciación de la negociación, el acreedor del empresario que sea beneficiario de fiducias mercantiles en garantía o de cualquier clase de garantía real constituida por terceros, o que cuente con un codeudor, fiador, avalista, asegurador, emisor de carta de crédito y, en general, con cualquier clase de garante del empresario, deberá informar por escrito al promotor si opta solamente por hacer efectiva su garantía o si no prescinde de obtener del empresario el pago de la obligación caucionada. Si el acreedor guarda silencio o manifiesta que no prescinde de hacer valer su crédito contra el empresario, se estará a lo previsto en el inciso 1º del presente artículo, los créditos objeto de los procesos suspendidos quedarán sujetos a lo que se decida en el acuerdo, y en caso de iniciarse procesos en su contra, los terceros garantes y los titulares de los bienes gravados podrán interponer la excepción previa correspondiente. (...) PAR. 2º—Cuando un acreedor del empresario opte por hacer efectivas sus garantías de terceros y ejerza sus derechos de cobro frente a un codeudor solidario, fiador, avalista o cualquier otra clase de suscriptor de un título valor en el mismo grado del empresario, si dicho garante es una persona natural, el ejercicio de los derechos del acreedor se limita en los siguientes términos: a) Durante la negociación del acuerdo no podrá rematarse, adjudicarse, ni enajenarse a ningún título el inmueble que sea de propiedad exclusiva del garante o del cual éste sea comunero, siempre y cuando se trate del inmueble que el garante haya ocupado para su vivienda personal por no menos de dos años consecutivos e inmediatamente anteriores a la fecha de iniciación de la negociación del acuerdo; (...)	**Law 550 of 1999**
Secured creditors first (paid)	**1**	**SUMMARY**	Article 120 states that secured creditors are given priority during the liquidation of the company. It is the responsibility of the secured creditor to make his rights known during the reorganisation proceeds.	

		ART. 120	Término para hacerse parte A partir de la providencia de admisión o convocatoria y hasta el vigésimo día siguiente al vencimiento del término de fijación del edicto, los acreedores deberán hacerse parte personalmente o por medio de apoderado presentando prueba siquiera sumaria de la existencia de su crédito. Los acreedores con garantía real conservan la preferencia y el orden de prelación para el pago de sus créditos, pero deberán hacerlos valer dentro del concordato. (...)	**Law 222 of 1999**
Management Replaced	**0**	**SUMMARY**	Article 7 makes reference to the 'promotor', a person designated to participate in the analysis and negotiation of the restructuring agreement (financial, administrative, and legal aspects among others). Article 17 refers to the right of management to continue to manage the company. There are some limitations to their role as administrators, such as having to ask for permission to modify the company bylaws or to constitute or exercise collateralised loans in favour of the company's creditors. Articles 116 and 117 of Law 222 give further reference to the rights of the old management to stay in place, at least while they comply with the rules set by the judge or by the creditors' assembly.	
		ART. 7	Promotores y peritos. La respectiva superintendencia o la cámara de comercio, según sea el caso, al decidir la promoción oficiosa o aceptar una solicitud de un acuerdo, designará a una persona natural para que actúe como promotor en el acuerdo de reestructuración. (...) Los promotores participarán en la negociación, el análisis y la elaboración de los acuerdos de reestructuración en sus aspectos financieros, administrativos, contables, legales y demás que se requieran, para lo cual podrán contar con la asesoría de peritos expertos en las correspondientes materias, previa autorización y designación de los mismos por parte de la entidad nominadora del promotor.	**Law 550 of 1999**

		ART. 17	Actividad del empresario durante la negociación del acuerdo A partir de la fecha de iniciación de la negociación, el empresario (...) podrá efectuar operaciones que correspondan al giro ordinario de la empresa con sujeción a las limitaciones estatutarias aplicables. Sin la autorización expresa exigida en este artículo, no podrán adoptarse reformas estatutarias; no podrán constituirse ni ejecutarse garantías o cauciones a favor de los acreedores de la empresa que recaigan sobre bienes propios del empresario, incluyendo fiducias mercantiles o encargos fiduciarios; ni podrán efectuarse compensaciones, pagos, arreglos, conciliaciones o transacciones de ninguna clase de obligaciones a su cargo, ni efectuarse enajenaciones de bienes u operaciones que no correspondan al giro ordinario de la empresa o que se lleven a cabo sin sujeción a las limitaciones estatutarias aplicables, incluyendo las fiducias mercantiles y los encargos fiduciarios que tengan esa finalidad o encomienden o faculten al fiduciario en tal sentido. (...) Tampoco habrá lugar a compensaciones de depósitos en cuenta corriente bancaria y, en general, de depósitos y exigibilidades en establecimientos de crédito. En este evento, además de la ineficacia de la operación habrá lugar a la imposición de las multas aquí previstas a los administradores de las respectivas instituciones financieras. La imposición de tales multas por parte de la Superintendencia Bancaria, podrá dar lugar también a la remoción de los administradores sancionados.	
		ART. 116	Continuidad. Los órganos sociales continuarán funcionando, sin perjuicio de las atribuciones que correspondan al contralor, a la junta provisional de acreedores y al representante legal.	**Ley Número 222 de 1995**

		ART. 117	Causales de remoción de los administradores. La Superintendencia de Sociedades, de oficio o por información del contralor o a petición de la junta provisional de acreedores, ordenará la remoción del o de los administradores en cualquiera de los siguientes eventos: 1. Cuando por su negligencia la sociedad no esté cumpliendo los deberes de comerciante. 2. Cuando estén inhabilitados para ejercer la función o el comercio. 3. Cuando sin justa causa no cumplan las obligaciones que les impone esta ley. 4. Cuando no denunciaron oportunamente la situación que impone la apertura del trámite concursal, o habiéndolo hecho, no se aportaron los documentos necesarios. 5. Cuando debidamente citados, dejen de asistir a las reuniones de la junta provisional de acreedores, sin justa causa. 6. Cuando no cumplan las órdenes impartidas por la Superintendencia de Sociedades. 7. Cuando hagan enajenaciones, pagos, arreglos relacionados con sus obligaciones o reformas estatutarias, sin autorización de la Superintendencia de Sociedades. 8. Cuando sin justa causa no adopten las medidas que les hubiere solicitado la junta provisional de acreedores. 9. En los demás casos previstos en la ley.	
Legal Reserve	**50%**	**SUMMARY**	The legal reserve amounts to fifty percent of shareholders' capital.	
		Article 452	RESERVA LEGAL [§ 2631] ART. 452.—Las sociedades anónimas constituirán una reserva legal que ascenderá por lo menos al cincuenta por ciento del capital suscrito, formada con el diez por ciento de las utilidades líquidas de cada ejercicio. Cuando esta reserva llegue al cincuenta por ciento mencionado, la sociedad no tendrá obligación de continuar llevando a esta cuenta el diez por ciento de las utilidades líquidas. Pero si disminuyere, volverá a apropiarse el mismo diez por ciento de tales utilidades hasta cuando la reserva llegue nuevamente al límite fijado.	**Codigo de Comercio de Colombia**

Czech Republic – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The law of the Czech Republic provides for a two-tier board system, which is similar to the German system. The relevant law is the Commercial Code (Act no. 513/1991) with amendments until 2003.	
One share -one vote	**0**	**SUMMARY**	One share one vote does not exist automatically. Voting rights are proportional to the subscribed nominal value of the share. Since different series of shares may subscribe for different amounts nominal capital, the attached voting rights may differ.	
		Article 180 (2)	A voting right is attached to a share. The company statutes must stipulate the number of votes pertaining to a share, so that the same number of votes pertains to shares with an identical nominal value. Should a company issue shares with various nominal values, the number of votes pertaining to these shares shall be determined in the same proportion as the nominal value of such shares. The statutes can stipulate a limitation of voting rights by setting a ceiling on the number of votes of a single shareholder and in the same amount for every shareholder or for a shareholder and a person empowered by him.	**Commercial Code**
Proxy by Mail allowed	**0**	**SUMMARY**	The law requires attendance of the shareholder or his/her proxy in person.	
		Article 184 (1)	[...] A shareholder (stockholder) participates in the general meeting in person or through a representative (proxy) holding a written power of attorney. [...]	**Commercial Code**
Shares not blocked before meeting	**1**	**SUMMARY**	The law does not provide for this.	**Commercial Code**
Cumulative voting/ proportional representation	**0**	**SUMMARY**	The law does not provide for this.	**Commercial Code**
Oppressed Minorities (Judicial Venue/ Obligatory Share Repurchase)	**1**	**SUMMARY**	Minority shareholders have the right to redeem their shares in merger and acquisition situations, on an order by the Securities Commission.	
		Article 183h (1)	On the basis of a minority shareholder's application, the Securities Commission may order a shareholder or shareholders acting in concert to offer minority shareholders an opportunity of redeeming the target company's participation securities [...]	**Commercial Code**

Preemptive right to new issues	**1**	**SUMMARY**	A preemptive right exists to subscribe up to an amount that would give the shareholder the same proportion of shares after the new issue as he held before the new issue. However, the preemptive right can be restricted or eliminated if serious reasons on part of the company exist.	
		Article 204a	1) Where registered capital is to be increased by a new subscription, each shareholder has a pre-emptive right to subscribe for a part of the company's new shares, in proportion to his holdings in the existing registered capital [...] 5) Shareholders' pre-emptive rights may not be restricted or eliminated in the statutes; a resolution of the general meeting to increase registered capital may only restrict or exclude pre-emptive rights if there is a serious reason to do so on the part of the company.	**Commercial Code**
% of share capital to call an ESM	**3%/5%**	**SUMMARY**	An ESM can be called by three percent of the share capital if the registered capital of the company exceeds CZK 100 million, and by five percent of the share capital if the registered capital equals CZK 100 million or below.	
		Article 181 (1)	A shareholder or shareholders of a company whose registered capital is higher than CZK 100 million and who have shares with a total nominal value exceeding 3% of registered capital, and also a shareholder or shareholders whose registered capital is CZK 100 million or less and who have shares with a total nominal value exceeding 5% of the registered capital, may ask the board of directors to convene an extraordinary general meeting to discuss proposed matters.	**Commercial Code**
Mandatory Dividend	**0**	**SUMMARY**	Mandatory dividend does not exist. In some instances, the Commercial Code forbids the payment of dividends (Article 178(2)).	
		Article 178 (1)	A shareholder is entitled to a proportion of the company's profit which the general meeting approved for distribution to shareholders. […]	**Commercial Code**

Czech Republic – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Debtors can seek protection from creditor claims for three months. Thereafter, however, dissolution must proceed if the company is still insolvent. In addition to the Commercial Code, insolvency proceedings are governed by the Law on Bankruptcy and Compensation, No 328/1991, as amended until 2003.	
Restrictions on going into reorganisation	**0**	**SUMMARY**	Management is allowed to make all decisions until a company becomes insolvent. If the company is bankrupt, winding up must follow, either decided by the members of a company or by court order. The court, however, will give the company a time limit to resolve the problems.	
		Article 68	3) (c) A company shall be wound up: on the date specified in a resolution adopted by its members, or by the competent organ of the company, as the day on which the company will be wound up; otherwise, on the date when such a resolution was adopted, if the company's winding up is connected with liquidation. […] 7) In the instances when this code permits a company to be wound up by a court order, prior to such order the court shall set a time limit for the company to remove the ground on which its winding up is proposed, if it is feasible to remove (remedy) such ground.	**Commercial Code**
		Article 5a(1)	The debtor can file a motion requesting the granting of a protection period within 15 days of the serving of a copy of the petition for adjudication of a bankruptcy order by court, if the petition was filed by a creditor or a person other than the debtor.	**Bankruptcy Code**
No automatic Stay on Assets	**0**	**SUMMARY**	Creditors have no right to access their assets during the protection period.	
		Article 5d	During the protection period: … b) Creditors cannot demand of debtors satisfaction of their claims by execution of a decision (judgment execution), except in the case of claims concerning employment relationships, taxes, charges, custom duties and social security and health insurance contributions [...].	**Bankruptcy Code**
Secured creditors first (paid)	**0**	**SUMMARY**	Wages enjoy preferential treatment over the satisfaction of secured creditors.	
		Section 74(3)	In the course of liquidation, the liquidator shall preferentially settle wage arrears claimed by the company's employees, unless he is bound to file a petition for a bankruptcy order.	**Commercial Code**

Management Replaced	**0**	**SUMMARY**	The law does not provide for the replacement of management during the protection period. The statutory organ is allowed to appoint a liquidator in case of prolonged insolvency, who runs the company and replaces the board of directors. Therefore, management is replaced in case a company enters bankruptcy proceedings, but not during the protection period.	
		Section 71(1)	A liquidator shall be appointed by the statutory organ of the company concerned, unless the law, deed of association or the statutes provide otherwise. Should a liquidator not be appointed without undue delay, he shall be appointed by the court. [...]	**Commercial Code**
		Section 5a(1)	The debtor can file a motion requesting the granting of a protection period within 15 days of the serving of a copy of the petition for adjudication of a bankruptcy order by court, if the petition was filed by a creditor or a person other than the debtor.	**Bankruptcy Code**
Legal Reserve	**20%**	**SUMMARY**	The legal minimum reserve is twenty percent.	
		Section 217(2)	A company is required to set up a reserve fund derived from the net profit recorded in the annual report for the year in which the profit was made in the amount of at least 20% of the net profit, however not more than 10% of the registered capital. This fund shall be augmented annually by an amount specified in the statutes, but by no less than 5% of net profit, until the amount of the reserve fund fixed in the statutes is reached, this being equal to at least 20% of the registered capital. [...]	**Commercial Code**

Egypt – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The corporate legal framework of Egypt primarily originates from French civil law. Sharia law has little direct influence on corporate governance. While there are four laws under which a company listed on the exchange may be incorporated, the only relevant one from this perspective is the Companies Law (CL 159/1981) on joint stock companies, partnerships limited by shares & limited liability companies. In the CL, the capital of a "joint stock company" is divided into shares of equal value and the liability of shareholders is confined to the shares subscribed. In a "partnership limited by shares" the capital consists of the part that belongs to one or more partners, and of shares of equal value subscribed by one or more shareholders. The joint partners are answerable for the liabilities of the company in unlimited responsibility, but the shareholder partner is only responsible within the value of the shares subscribed. The "limited liability company" is not allowed to issue negotiable shares. The version of the Companies Law used was that available from Egyptlaws.com last updated in April 2003. Anglo-American common law concepts have become more prominent with the Securities Depository Law and the proposed Capital Market Law. The main laws governing the securities market in Egypt are: • The Capital Market Law (CML 95/1992), which regulates the capital market and provides the framework and supervision of the Cairo and Alexandria Stock Exchange (CASE). • The Central Depository Law (CDL 93/2000), which supports shareholder record keeping, clearing and settlement. The regulations used were those available at the website of the Capital Markets Authority, http://www.cma.gov.eg/En-nf/index1.html.	

One share-one vote	**0**	**SUMMARY**	Egypt does not have one share one vote. Article 9 of the Executive Regulations allows different types of shares. While anecdotal evidence suggests that multiple share classes are currently rare in Egypt, there is no guarantee that more will not be added in the future. Ordinary shares are either registered (also called "nominal") or bearer shares (these shares were introduced by CML 95 in 1992, Article 1 of Executive Regulations). The percentage of bearer shares must not exceed twenty five percent of the total share capital and the value of these shares must be fully paid up. Owners of bearer shares may attend the AGM, if they deposit their shares at a bank, the company or the MCSD (the central clearing, settlement and registration organisation), but they are not allowed to vote (CML 95 Executive Regulations, article 13).	
		Article 9	The company's statute may specify certain privileges for certain types of nominal shares with regard to voting, profits, or the outcome of liquidation and provided that the same type shares are equal in respect of rights, privileges or restrictions.	**Executive Regulations of the Capital Market Law, No. 95/1992**
Proxy by mail	**0**	**SUMMARY**	Voting by mail is not allowed. Shareholders or their proxies have to be present at meetings (PCSU Report and Cairo & Alexandria Stock Exchanges Research & Markets Development Department Working Paper Series, by Dr. Shahira Abdel Shahid, Director of Research & Markets Development September 2001).	
		Article 59	Every shareholder is entitled to attend the General Assembly of Shareholders, personally or by proxy.	**Companies Law 159 of 1981**
Shares not blocked before meeting	**1**	**SUMMARY**	Share transfers are not registered from the date of the notice of the meeting to the date of the meeting.	
		Article 205 (Regulations)	The ownership of shares shall not have its transfer registered in the company books as of the date of summons for the meeting shall be published or sending such summons to people concerned up to the date the general assembly shall have concluded its proceedings.	**Companies Law 159 of 1981**
Cumulative voting/proportional representation	**0**	**SUMMARY**	Cumulative voting and proportional representation are not mentioned in the law. Article 63, describing the duties of an ordinary general meeting, states that it is responsible for the election and dismissal of directors. Article 230 of the regulations states that voting shall be in the manner decided by the Statutes.	
		Article 63	With observance of the provisions of the present law, and the statutes of the company, the ordinary General Assembly will be concerned with the following:- a) Selection of the members of the administrative board and their dismissal. …	**Companies Law 159 of 1981**

		Article 230 (Regulations)	Voting in the general assembly shall be carried according to the method specified by the Statutes and in case of absence of such a method the chairman of the meeting shall propose the manner to be adopted subject to the approval of the assembly.	
Oppressed minorities mechanisms - Judicial venue/obligatory share repurchase	**1**	**SUMMARY**	There are two key "last-ditch" provisions to protect minority shareholders. One is Article 76 of the Companies Law, stating that any resolutions passed at a general meeting to benefit only one class of shareholders etc shall be revoked. However, it is unclear who makes this determination. The Capital Market Authority (CMA) has direct power in the Capital Markets Law. Article 10 gives the CMA Board of Directors the power to "suspend resolutions" of the general meeting if they are issued for the benefit of a certain category of shareholders. The CMA receives a complaint from investors (representing more than five percent of capital) or on behalf of shareholders from a CMA staff member attending an annual meeting. If the CMA legal department determines that the case has merit, it is passed on to the CMA Board of Directors for review. The CMA Board can then pass the case to a securities market arbitration panel. Every shareholder has the right to file a complaint with the Companies Organization (COOR) regarding violation of CL 159. A shareholder who attends the AGM and registers his opposition to a decision in the minutes, can initiate a case in court within one year from the meeting. Article 76 of CL 159 states that "…all resolutions issued for the benefit of a certain category of shareholders or causing harm to them, or bringing special benefit to the members of the board of directors or others without considering the company's position, shall be revoked." If shareholders representing at least five percent of capital file a complaint, CMA has the power to suspend resolutions of the AGM that are considered to unfairly favour a given group of shareholders, or causing harm to them, or unfairly bringing about a benefit to the members of the board or others. The parties involved should submit the issue to arbitration within 15 days. Shareholders representing ten percent of capital can request CMA or COOR to conduct an inspection. The proposed CML draft introduces the concept of class action to be initialised by CMA. Now only collective action, where each plaintiff is personally listed, is possible under Egyptian law.	
		Article 76	[…] Likewise any decision issued in favour of a certain group of the shareholders, or in their prejudice, may be nullified, or if it aims at procuring special advantage to the members of the board of administration or others, in disregard to the interests of the company. The demand for nullification in this case can only be made by shareholders who had protested against the decision in the minutes of the general meeting. The relevant administrative authority may replace them in the application for nullification, if they invoke serious reasons [...]	**Companies Law 159 of 1981**

Preemptive rights	**0**	**SUMMARY**	There are no automatic preemptive rights by law. Any preemptive rights are defined according to the statutes of the company.	
		Article 96 (Regulations)	The statutes of the company shall provide provisions specifying the extent of priority provided for the old shareholders in the subscription of the capital increase shares in case achieved through cash. The statutes shall not include limiting such a right to certain shareholders only and this shall be without prejudice to rights adopted for distinguished shares. Such a right may – during the period of subscription be circulated whether separately or affiliated to the original shares.	**Companies Law 159 of 1981**
		Article 30	The statute of the company may include a stipulation regarding the extent of the preemptive rights of the present shareholders to subscribe in the shares of capital increase by cash nominal shares and by observing the privileges determined for them in accordance with provisions of Article (9) hereof. The statute may not include a stipulation limiting this right to certain shareholders than others, and without prejudice to the rights that could be specified for the preferred shares. This right may be traded during the period of subscription in the capital increase whether separately or dependently with the principal shares.	**Executive Regulations of the Capital Market Law, No. 95/1992**
		Article 31	The period during which all existing shareholders may have preemptive right to subscribe in the shares of capital increase, and in case such right is specified, it should not be less than thirty days from the date of subscription commencement. …	
Percentage share capital to call an ESM <10%	**10%**	**SUMMARY**	Article 61 of Companies Law 159 gives shareholders representing five percent of capital the right to call the AGM, if the board did not do so. Extraordinary shareholder meetings are held at the request of ten percent of share capital or the board of directors.	
		Article 61	[…] The board is called upon to convoke the ordinary General Assembly if the auditor of accounts demands this from it, or at least a number of shareholders representing five percent of the capital of the company […]	**Companies Law 159 of 1981**
		Article 70	(a) the extraordinary General Assembly meets upon an invitation of the board of Administration. The board should address the invitation if it is asked by a number of Shareholders representing one tenth of the capital at least […]	
Mandatory dividend	**0**	**SUMMARY**	Article 63 of the Company Law states that the Annual General Meeting approves the distribution of cash dividends following the review of the auditor report, with Articles 191 - 199 of the regulations covering the form of the distribution.	

		Article 63	With observance of the provisions of the present law, and statutes of the company, the ordinary General Assembly will be concerned with the following: […] (e) Approval of the distribution of profits.	**Companies Law 159 of 1981**

Egypt – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Bankruptcy provisions can be found in the Egyptian Trade Law (sometimes called Commercial Code by translators), Law No.17 of the year 1999. This came into effect on October 1st 1999. This law deals solely with bankruptcy. True reorganisation (akin to US Chapter 11) is not included in Egyptian laws, although there are provisions in the Egyptian system allowing for "preventive settlement", a form of reorganisation.	
Restrictions on going into reorganisation	**na**	**SUMMARY**	Although there are provisions in the Egyptian system allowing for "preventive settlement", a form of reorganisation, these provisions are complicated and not comprehensive, so true bankruptcy reorganizations are unlikely to occur (James C. Regan, USAID Report, 1998)	
No automatic stay on assets	**1**	**SUMMARY**	During reorganisation there is no automatic stay on assets	**Trade Law 17 of 1999**
Secured creditors first (paid)	**0**	**SUMMARY**	Articles 616 and 618 of the Trade Law provide for certain creditors to have priority over customers in the bankruptcy, such as for taxes and wages, while article 635 permits a bankruptcy judge to allow money necessary for spending on the urgent matters. Any debts arising from the liquidation process have priority as indicated by Article 148 of the Companies Law.	
		Article 616	The bankruptcy trustee, after getting permission from the bankruptcy judge, shall pay, within ten days following issuance of the bankruptcy declaration ruling, out of the bankruptcy money and despite the existence of any other debt, wages, and salaries, and amounts that were due before issuance of the bankruptcy declaration ruling, for a period of thirty days for the workers of the bankrupt. If the bankruptcy trustee does not have the money necessary to settle these debts, settlements shall be made from the first money entering the bankruptcy, even if there are other debts preceding them in lien degree.	**Trade Law 17 of 1999**
		Article 618	The lien prescribed for the government concerning all kinds of taxes shall only comprise the tax due on the bankrupt for the two years prior to issuing the bankruptcy declaration ruling. The other due taxes shall be included within the distributions in their quality of ordinary debts.	
		Article 148	Any debt arising from the works of liquidation shall be paid from the assets of the company, with priority on other debts.	**Companies Law 159 of 1981**
Management replaced (in reorganisation)	**na**	**SUMMARY**	Although there are provisions in the Egyptian system allowing for "preventive settlement", a form of reorganisation, these provisions are complicated and not comprehensive, so true bankruptcy reorganizations are unlikely to occur.	

Legal reserve required as a % of capital	**50%**	**SUMMARY**	The Companies Law stipulates that if losses amount to half of the issued capital, the board must convene an extraordinary meeting to consider dissolution. This was also confirmed by a Cairo & Alexandria Stock Exchanges Research & Markets Development Department Working Paper by Dr. Shahira Abdel Shahid Director of Research & Markets Development September 2001.	
		Article 69	If the losses of the company reach half the issued capital, the board of administration should promptly convoke the extraordinary General Assembly for consideration of the dissolution of the company or its continuance.	**Companies Law 159 of 1981**

Hungary – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The relevant law, Act CXLIV of 1997 on Business Associations, has been amended several times. The current one is effective from 1 January 2004	
One share -one vote	**0**	**SUMMARY**	One share-one-vote is not automatically in place. The voting rights are proportional to the face value of the share. Depending on the series investors are dealing with, voting rights will vary greatly with the face value of such shares. Preferred shares can deviate from the proportional vote principle.	
		Section 229	1)With the exceptions set forth in this Act, voting rights attached to shares shall be determined by the face value of such shares. 2) For registered shares, the statutes of a public company may stipulate the maximum level of voting rights which may be exercised by a single shareholder. When establishing maximum voting rights, shareholders must not be discriminated against in any way. (3) Any restriction of voting rights under the statutes of a public limited company as defined in Subsection (2) shall cease by virtue of this Act upon closing a purchase deal specified by legislation pertaining to securities, if in consequence of the purchase a holding in excess of fifty per cent of the company's shares is acquired. (4) Within the framework of this Act and the statutory regulations on securities, the method of exercising voting rights shall be set forth in the deed of foundation (statutes).	**Act CXLIV of 1997**
		Section 185 (1)	On the basis of shares granting preferred voting rights, shareholders may exercise multiple voting rights as defined in the deed of foundation (statutes). The voting rights attached to one share, however, may not exceed ten times the voting rights corresponding to the face value of the share.	
Proxy by Mail allowed	**0**	**SUMMARY**	Proxy by mail is not explicitly allowed for ordinary shares. However, section 229 (4) indicates that this is allowed if set forth in the deed of foundation.	
		Section 185 (2)	The deed of foundation (statutes) may also provide that resolutions of the general meeting be passed only with the positive vote of the simple majority of shares granting preferred voting right, or, if only one share granting preferred voting rights has been issued, with the positive vote of the shareholder holding such share. This right may be exercised only if represented at the general meeting in person or by proxy.	**Act CXLIV of 1997**

		Section 221	(1) Shareholders may exercise their shareholders' rights through representatives. Members of the board of directors, the general director, the supervisory board members or the auditor may not be representatives. (2) One representative may represent several shareholders, but one shareholder may have only one representative.	
		Section 229 (4)	Within the framework of this Act and the statutory regulations on securities, the method of exercising voting rights shall be set forth in the deed of foundation (statutes).	
Shares not blocked before meeting	**1**	**SUMMARY**	Shares are not automatically blocked before the meeting. However, this can be regulated in the deed of association. Shareholders may be blocked if the have not paid the full amount due of the face value or issue price of their shares	
		Section 229 (4) & (5)	4) Within the framework of this Act and the statutory regulations on securities, the method of exercising voting rights shall be set forth in the deed of foundation (statutes). 5) Shareholders may not exercise their voting rights until they provide cash contributions which are due (Section 222).	**Act CXLIV of 1997**
		Section 222 (1)	Shareholders are obliged to pay the full amount of the face value or issue price of their shares within a period of one year following entry of the joint-stock company into the register of companies, as well as to make available their contribution in kind before the submission of the application for registration of the company, unless the value of the contribution in kind is less than twenty-five per cent of the company's share capital. The deed of foundation (statutes) may contain a clause for such cases, permitting shareholders to provide their contribution in kind within a period of five years following the company's registration. With the exception of a reduction of share capital, shareholders may not be exempted from this obligation and they shall not, during the company's existence, be able to reclaim the contributions they have made.	
Cumulative voting/ proportional representation	**0**	**SUMMARY**	The law does not automatically provide for cumulative voting or proportional representation. However, both can be introduced via deed of foundation.	
		Section 229 (4)	Within the framework of this Act and the statutory regulations on securities, the method of exercising voting rights shall be set forth in the deed of foundation (statutes)	**Act CXLIV of 1997**
Oppressed Minorities (Judicial Venue/ Obligatory Share Repurchase)	**0**	**SUMMARY**	The law does not provide for judicial venue or obligatory share repurchase for oppressed minorities.	**Act CXLIV of 1997**
Preemptive right to new issues	**1**	**SUMMARY**	Yes, pre-emption right is provided for by the law - but only in proportion to the initial capital contribution, unless stated otherwise.	

		Section 162 (1)	Members of companies registered prior to an increase of initial capital shall have pre-emption rights to acquire new capital contributions within a period of thirty days after passage of the resolution on the initial capital increase. Unless otherwise provided by the articles of association, members may exercise this right in proportion to their capital contributions.	**Act CXLIV of 1997**
% of share capital to call an ESM	**10%**	**SUMMARY**	An ESM can be called by ten percent or more of the share capital.	
		Section 51 (1)	Members (shareholders) representing one-tenth or more of the votes may at any point in time request that the business association's supreme body be convened, indicating the reason and the purpose thereof. The articles of association (deed of foundation, statutes) may also grant this right to members (shareholders) representing a smaller proportion of the votes. If the management does not comply with this request within a period of thirty days, upon the request of the members making the proposal, the court of registration shall convene the meeting of the business association's supreme body within a period of thirty days after the submission of a request to this effect. There shall be no appeal against a judgment of the court of registration admitting such a request.	**Act CXLIV of 1997**
Mandatory Dividend	**0**	**SUMMARY**	A mandatory dividend does not exist (Section 141 and 225)	
		Section 225	1) The general meeting may adopt a decision for the payment of interim dividends between the approval of two consecutive annual reports prepared according to the Accounting Act if the deed of foundation (statutes) so provides and if a) according to the interim balance sheet prepared according to the Accounting Act, the company has funds sufficient to cover such interim dividends, on condition that such payments may not exceed the amount of profits earned after the closing of the books of the financial year to which the last annual report pertains, calculated in accordance with the Accounting Act, or the amount supplemented with the available profit reserves and the payment of such interim dividends may not result in the company's equity capital - adjusted in accordance with the Accounting Act - to drop below its share capital, and b) if the shareholders agree to repay the interim dividend in the event of any subsequent reason arising with a view to Subsection (1) of Section 223 in the annual report prepared according to the Accounting Act on account of which no dividend can be paid. (2) The deed of foundation (statutes) of the joint-stock company may grant authorization to the board of directors to decide, subject to the prior consent of the supervisory board, on the payment of interim dividends in the stead of the general meeting.	**Act CXLIV of 1997**

Hungary – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Act XLIX of 1991 on Bankruptcy Proceedings, Liquidation Proceedings and Members' Voluntary Dissolution (from Jan 1 2004 until EU accession) is the current law. From Section 1 (1) This Act shall cover bankruptcy proceedings, liquidation proceedings, and members' voluntary dissolution. (2) 'Bankruptcy proceeding' means when the debtor petitions for relief from its financial obligations for the sake of composition agreement, or attempts to have a composition agreement concluded. (3) 'Liquidation' means the proceeding aimed to provide satisfaction, as laid down in this Act, to the creditors of an insolvent debtor upon its dissolution and termination of its corporate existence. (4) 'Members' voluntary dissolution means the proceeding initiated by an economic organization that is not insolvent aimed to satisfy its creditors upon its winding up and termination of its corporate existence. In case of insolvency, bankruptcy procedures have to be started. Both creditors and debtors have to agree upon a reorganisation plan, which will then interrupt the liquidation procedure of the company. In case no agreement can be reached or the reorganisation is unsuccessful, liquidation procedures will be continued. A legal reserve exists although no percentage is specified (Gide Act CXLIV of 1997)	
Restrictions on going into reorganisation	**1**	**SUMMARY**	Reorganisation needs the consent of the general meeting and creditors. Liquidation, however, does not require this consent. The law provides for trying to rescue the company via a reorganisation programme.	

		Section 18	1) The debtor shall draw up a program to restore or preserve solvency and of a composition proposal. 2) During the period of moratorium the debtor shall arrange a meeting to negotiate a composition to which all known creditors and the bankruptcy trustee shall be invited by delivering a composition proposal and the program aimed to restore (preserve) solvency. The invitation and the appendices shall be delivered to the invitees at least 15 days prior to the scheduled date of the meeting […] 5) Should the negotiation fail to produce results, additional negotiation sessions may be held during the period of the moratorium.	**Act XLIX of 1991**
		Section 19 (2)	Creditors may attend the composition negotiations in person or be represented by way of proxy. [...] Consent to the composition agreement may be granted in writing	
		Section 21	(2) If no composition agreement was reached [...] the court shall terminate the proceedings and shall order continuance of the liquidation proceedings [...]	
No automatic Stay on Assets	**0**	**SUMMARY**	Once a company enters bankruptcy proceedings, creditors can not access assets until conclusion of the proceedings.	
		Section 7 (1)	The directors of economic organizations may file for bankruptcy proceedings at the court.	**Act XLIX**
		Section 8 (4)	If a petition is filed for a debtor's liquidation on or after the starting date of the bankruptcy proceeding, the court shall adjourn such petition until the final and definitive conclusion of the bankruptcy proceeding.	
Secured creditors first (paid)	**0**	**SUMMARY**	Secured creditors are to be paid before unsecured creditors. However, "liquidation expenses" are to be paid before secured creditors can be satisfied. Liquidation expenses include wages and taxes.	
		Section 57	(1) The economic organisation shall satisfy debts from assets that are subject to liquidation in the following order: a) liquidation expenses described in subsection (2); b) claims secured by lien or collateral, c) alimony and life-annuity payments, d) with the exception of claims based on bonds, other claims of private individuals not originating from economic activities [...]. and (2) Liquidation expenses are as follows: a) wages and other personnel costs payable by the debtor, [...], b) costs in connection with the rational termination with the debtor's business operations [...] including [...] tax and contribution payments [...].	**Act XLIX**

Management Replaced	**0**	**SUMMARY**	The management stays during reorganisation, although many actions must be approved by a court-appointed bankruptcy trustee	
		Section 1	(2) 'Bankruptcy proceeding' means when the debtor petitions for relief from its financial obligations for the sake of composition agreement, or attempts to have a composition agreement concluded.	**Act XLIX**
		Section 14	1) The court shall appoint a bankruptcy trustee from the register of liquidators in its decree on the moratorium 2) The directors of a debtor economic organization shall take any action within their official capacity only if it does not violate the rights provided for the bankruptcy trustee	
		Section 17 (1)	The office of the bankruptcy trustee shall be terminated upon the termination of the bankruptcy proceedings (discharge), or, in the case of continuance of a suspended liquidation proceeding, upon appointment of an official liquidator.	
Legal Reserve	**N/a**	**SUMMARY**	There is a legal reserve below which dividends can not be paid. This is set as the value of the initial capital of the company	
		Section 141 (3)	(3) Upon the proposal of the managing director, approved by the supervisory board in the event that a supervisory board operates at the company, the members' meeting may pass a resolution on the payment of dividends simultaneously upon the approval of the report prepared pursuant to the Accounting Act. No dividends may be paid to members if, as a result of such, the equity of the company does not reach the initial capital of the company as set forth in the legal regulations on accounting	**Act CXLIV of 1997**
		Section 225	1) The general meeting may adopt a decision for the payment of interim dividends between the approval of two consecutive annual reports prepared according to the Accounting Act if the deed of foundation (statutes) so provides and if a) according to the interim balance sheet prepared according to the Accounting Act, the company has funds sufficient to cover such interim dividends, on condition that such payments may not exceed the amount of profits earned after the closing of the books of the financial year to which the last annual report pertains, calculated in accordance with the Accounting Act, or the amount supplemented with the available profit reserves and the payment of such interim dividends may not result in the company's equity capital - adjusted in accordance with the Accounting Act - to drop below its share capital, and b) if the shareholders agree to repay the interim dividend in the event of any subsequent reason arising with a view to Subsection (1) of Section 223 in the annual report prepared according to the Accounting Act on account of which no dividend can be paid. 2) The deed of foundation (statutes) of the joint-stock company may grant authorization to the board of directors to decide, subject to the prior consent of the supervisory board, on the payment of interim dividends in the stead of the general meeting.	

India – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			India is a common law country. The Capital Markets Division of the Department of Company Affairs, Ministry of Finance, regulates capital markets and security transactions. Five acts enable the Government to make these regulations and govern corporate activity in the country: the Companies Act, 1956 with its periodic amendments; the Securities Contracts (Regulation) Act, 1956; Preference Shares (Regulation of Dividends) Act 1960, the Securities and Exchange Board of India (SEBI) Act, 1992; and the Depositors Act, 1996. The latest amendment to the Companies Act, 1956 was the Companies (Second Amendment) Act, 2002 [with effect from 13 January, 2003]. The Act provides for the constitution of a National Company Law Tribunal ("Tribunal"). The functions that were handled by the Company Law Board (CLB) (dispute resolution and compliance with certain provisions of the Companies Act, 1956), Board for Industrial & Financial Reconstruction (BIFR) (revival and rehabilitation of sick companies) and High Courts (winding up of companies) are now handled by the Tribunal. The Companies Act is an umbrella law that regulates the pre-incorporation, incorporation, operations and duties of companies. It also deals with the rights and obligations of directors and shareholders. It is administered by the department of company affairs (DCA) and enforced by the Tribunal, In addition, the Indian government is currently considering further amending the Companies Act 1956. The Companies (Amendment) Bill, 2003 proposes to make some far-reaching changes, including measures to improve corporate audit standards and enhance corporate governance and investor protection.	**c.f. Worldbank ROSC Report on India, and relevant Indian Acts cited here**
One share-one vote	**1**	**SUMMARY**	Indian corporate law is based on the premise that all shareholders are equal within each class. There are two types of shares: preference shares and ordinary shares. Preference shares are not popular in India. Ordinary shares carry one share one vote (Section 87). The Companies Act has a specific provision (Section 89) to reduce excessive voting rights in existing companies.	**c.f. Worldbank ROSC Report on India. Companies Act, 1956, as amended in 2002, w.e.f. 13 January, 2003**

		Section 87	Section 87. Voting rights (1) Subject to the provisions of section 89 and sub-section (2) of section 92- (a) every member of a company limited by shares and holding any equity share capital therein shall have a right to vote, in respect of such capital, on every resolution placed before the company; and (b) his voting right on a poll shall be in proportion to his share of the paid-up equity capital of the company.	**Companies Act 1956, amended 2002, w.e.f. 13 January, 2003**
		Section 89	Section 89. Termination of disproportionately excessive voting rights in existing companies (1) If at the commencement of this Act any shares, by whatever name called, of any existing company limited by shares carry voting rights in excess of the voting rights attaching under sub-section (1) of section 87 to equity shares in respect of which the same amount of capital has been paid-up, the company shall, within a period of one year from the commencement of this Act, reduce the voting rights in respect of the share first mentioned so as to bring them into conformity with the voting rights attached to such equity shares under sub-section (1) of section 87.	
Proxy by mail	**0**	**SUMMARY**	Proxy voting in person is allowed (Section 176). Section 192A provides that a listed company may pass a resolution by means of postal ballot. However, there is no provision in the law that allows proxy by mail.	
		Section 176	Section 176 of the Act - Proxies: (1) Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person (whether a member or not) as his proxy to attend and vote instead of himself; but a proxy so appointed shall not have any right to speak at the meeting.	**Companies Act 1956, amended 2002, w.e.f. 13 January, 2003**
		Section 192A	Section 192A. Passing of resolutions by postal ballot: (1) Notwithstanding anything contained in the foregoing provisions of this Act, a listed public company may, and in the case of resolutions relating to such business as the Central Government may, by notification, declare to be conducted only by postal ballot, shall, get any resolution passed by means of a postal ballot, instead of transacting the business in general meeting of the company. …. (Explanation: For the purpose of this section, "postal ballot" includes voting by electronic mode.)	
Shares not blocked before meeting	**1**	**SUMMARY**	The law does not require that shares be deposited prior to a General Shareholders Meeting.	
Cumulative voting/Proportional Representation	**1**	**SUMMARY**	Section 183 provides shareholders with the right of cumulative voting.	**Companies Act 1956, amended 2002,**

		Section 183	Section 183. Right of member to use his votes differently On a poll taken at a meeting of a company, a member entitled to more than one vote, or his proxy, or other person entitled to vote for him, as the case may be, need not, if he votes, use all his votes or cast in the same way all the votes he uses.	**w.e.f. 13 January, 2003**
Oppressed minorities mechanism - Judicial venue/Obligatory share repurchase	**1**	**SUMMARY**	Remedies are available through the Tribunal. The Tribunal hears shareholder complaints against oppression by management if requested by not less than 100 shareholders or shareholders representing not less than ten percent of capital (Sections 397-399).	
		Section 397	Section 397. Application to Tribunal for relief in cases of oppression (1) Any member of a company who complains that the affairs of the company are being conducted in a manner prejudicial to public interest or in a manner oppressive to any member or members (including any one or more of themselves) may apply to the Tribunal for an order under this section, provided such members have a right so to apply in virtue of section 399. (2) If, on any application under sub-section (1) the Tribunal is of the opinion- (a) that the company's affairs are being conducted in a manner prejudicial to public interest or in a manner oppressive to any member or members; and (b) that to wind up the company would unfairly prejudice such member or members, but that otherwise the facts would justify the making of a winding up order on the ground that it was just and equitable that the company should be wound up; the Tribunal may, with a view to bringing to an end the matters complained of, make such order as it thinks fit.	**Companies Act 1956, amended 2002, w.e.f. 13 January, 2003**

		Section 398	Section 398. Application to Tribunal for relief in cases of mismanagement (1) Any members of a company who complain: (a) that the affairs of the company are being conducted in a manner prejudicial to the public interest or in a manner prejudicial to the interests of the company; or (b) that a material change (not being a change brought about by, or in the interests of, any creditors (including debenture holders, or any class of share holders, of the company, …. has taken place in the management or control of the company, whether by an alteration in its Board of Directors, or manager, or in the ownership of the company's shares, or if it has no share capital, in its membership, or in any other manner whatsoever , and that by reason of such change, it is likely that the affairs of the company will be conducted in a manner prejudicial to public interest or in a manner prejudicial to the interests of the company; may apply to the Tribunal for an order under this section, provided such members have a right so to apply in virtue of section 399. (2) If, on any application under sub-section (1) the Tribunal is of the opinion that the affairs of the company are being conducted as aforesaid or that by reason of any material change as aforesaid in the management or control of the company, it is likely that the affairs of the company will be conducted as aforesaid, the Tribunal may, with a view to bringing to an end or preventing the matters complained of or apprehended, make such order as it thinks fit.	
		Section 399	Section 399. Right to apply under sections 397 and 398 (1) The following members of a company shall have the right to apply under section 397 or 398:- (a) in the case of a company having a share capital, not less than one hundred members of the company or not less than one-tenth of the total number of its members, whichever is less, or any member or members holding not less than one-tenth of the issued share capital of the company, provided that the applicant or applicants have paid all calls and other sums due on their shares; …. (3) Where any members of a company are entitled to make an application in virtue of sub-section (1), any one or more of them having obtained the consent in writing of the rest, may make the application on behalf and for the benefit of all of them.	
Pre-emptive rights	**1**	**SUMMARY**	Pre-emptive rights are provided by the Companies Act (Section 81)	

		Section 81	Section 81. Further issue of capital (1) Where at any time after the expiry of two years the formation of a company or at any time after the expiry of one year from the allotment of shares in that company made for the first time after its formation, whichever is earlier, it is proposed to increase the subscribers capital of the company by allotment of further shares, then: (a) such [further] shares shall be offered to the persons who, at the date of the offer, are holders of the equity shares of the company, in proportion, as nearly as circumstances admit, to the capital paid-up on those shares at that date.	**Companies Act 1956, amended 2002, w.e.f. 13 January, 2003**
Percentage share capital to call an ESM <10%	**10%**	**SUMMARY**	The Board must call an extraordinary shareholders meeting on request of shareholders holding not less than ten percent of the paid-up capital (Section 169).	
		Section 169	Section 169. Calling of extraordinary general meeting on requisition (1) The Board of directors of a company shall, on the requisition of such number of members of the company as is specified in sub-section (4), forthwith proceed duly to call an extraordinary general meeting of the company. (4) The number of members entitled to requisition a meeting in regard to any matter shall be- (a) in the case of a company having a share capital, such member of them as hold at the date of the deposit of the requisition, not less than one-tenth of such of the paid-up capital of the company as at that date carries the right of the voting in regard to that matter; (b) in the case of a company not having a share capital, such number of them as have at the date of deposit of the requisition not less than one-tenth of the total voting power of all the members having at the said date a right to vote in regard to that matter.	**Companies Act 1956, amended 2002, w.e.f. 13 January, 2003**
Mandatory dividend	**0**	**SUMMARY**	There is no specific law or regulation that requires mandatory dividend.	

India – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The relevant law is the Companies Act, 1956.	
Restrictions on going into reorganisation	**1**	**SUMMARY**	Any reorganisation prior to being implemented is required to be sanctioned by the Tribunal. The Tribunal only accord their sanction after the members and/or creditors have consented to such reorganisation (Section 391).	
		Section 391	Power to compromise or make arrangements with creditors and members (1) Where a compromise or arrangement is proposed: (a) between a company and its creditors or any class of them; or (b) between a company and its members or any class of them; the Tribunal may, on the application of the company or of any creditor or member of the company, or, in the case of a company which is being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal directs. (2) If a majority in number representing three-fourths in value of the creditors, or class of creditors, or members, or class of members, as the case may be, present and voting either in person or, where proxies are allowed under the rules made under section 643, by proxy, at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Tribunal, be binding on all the creditors, all the creditors of the class, all the members, or all the members of the class as the case may be, and also on the company, or in the case of a company which is being wound up, on the liquidator and contributories of the company.	**Companies Act 1956, amended 2002, w.e.f. 13 January, 2003**
No automatic stay on assets	**1**	**SUMMARY**	There is no automatic stay on assets upon filing for reorganisation. This will be up to the Tribunal's discretion.	
		Section 391	Power to compromise or make arrangements with creditors and members ….. (6) The Tribunal may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding against the company on such terms as the Tribunal thinks fit, until the application is finally disposed of.	**Companies Act 1956, amended 2002, w.e.f. 13 January, 2003**
Secured creditors first (paid)	**1**	**SUMMARY**	Secured creditors and workmen's dues are ranked *pari passu*. Debts due to secured creditors and the workmen have a priority over all other debts in the distribution of the proceeds that result from the disposition of the assets of a company being wound up.	**Companies Act 1956, amended**

		Section 529A	Overriding preferential payments (1) Notwithstanding anything contained in any other provision of this Act or any other law for the time being in force in the winding up of a company, - (a) workmen's dues; and (b) debts due to secured creditors to the extent such debts rank under clause (c) of the proviso to sub-section (1) of section 529 pari passu with such dues, shall be paid in priority to all other debts. (2) The debts payable under clause (a) and clause (b) of sub-section (1) shall be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions.	**2002, w.e.f. . January 13, 2003**
		Section 529	Application of insolvency rules in winding up of insolvent companies (1) In the winding up of an insolvent company, the same rules shall prevail and be observed with regard to- (a) debts provable; (b) the valuation of annuities and future and contingent liabilities; and (c) the respective rights of secured and unsecured creditors; as are in force for the time being under the law of insolvency with respect to the estates of persons adjudged insolvent: Provided that the security of every secured creditor shall be deemed to be subject to a pari passu charge in favour of the workmen to the extent of the workmen's portion therein, and, where a secured creditor, instead of relinquishing his security and proving his debts opts to realise his security,- (a) the liquidator shall be entitled to represent the workmen and enforce such charge; (b) any amount realised by the liquidator by way of enforcement of such charge shall be applied rateably for the discharge of workmen's dues; and (c) so much of the debts due to such secured creditor as could not be realised by him by virtue of the foregoing provisions of this proviso or the amount of the workmen's portion in his security, whichever is less, shall rank part passu with the workmen's dues for the purposes of section 529A.	
Management replaced (in reorganisation)	**0**	**SUMMARY**	There is no specific provision in the law that the incumbent management be replaced in reorganisation.	
Legal reserve required as a % of capital	**0**	**SUMMARY**	There is no specific provision for a minimum reserve for a company~~,~~. However, if a company issues debentures, there is a specific provision for a “debenture redemption reserve”.	
		Section 117C	Liability of a company to create security and debenture redemption reserve: (1) Where a company issues debentures after the commencement of this Act, it shall create a debenture redemption reserve for the redemption of such debentures, to which adequate amounts shall be credited, from out of its profits every year until such debentures are redeemed.	**Companies Act 1956, amended 2002, w.e.f. 13 January, 2003**

Indonesia – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Shareholder protection measures are provided by Law of The Republic of Indonesia Number 1 of 1995 Concerning Limited Liability Companies (referred to as the Company Law 1995 hereafter).	
One share-one vote	**1**	**SUMMARY**	Indonesian Company Law provides for one share one vote (Article 72), unless otherwise stipulated in the Articles of Association. Different classes of shares are allowed (46).	
		Article 72	(1) Unless otherwise stipulated in the articles of association, each issued share carries a right to one vote. (2) The company's shares owned by the company do not carry any voting rights. (3) The shares of a parent company owned by its subsidiaries also do not carry any voting rights.	**Company Law 1995**
		Article 46	(1) The article of association shall stipulate 1 (one) or more classes of shares. (2) Each share of the same class gives their holders the same rights. (3) If there is more than 1 (one) class of shares, the articles of association shall stipulate 1 (one) class as common shares. (4) Besides the classes of shares as referred to in paragraph (3), the articles of association may stipulate 1 (one) or more classes of shares: a. having special, conditional, limited or without voting rights; b. that after a certain period of time may be withdrawn or exchanged with shares of another class; c. that grants the holder with the right to receive cumulative or non-cumulative dividends; and or d. that grants the holder with the preferred right to receive dividends and the remaining assets of the company in liquidation prior to providing such right to the shareholders of another class of shares.	
Proxy by mail	**0**	**SUMMARY**	Proxy voting in person is allowed (Article 71) in a GMS (General Meeting of Shareholders). Article 78 provides that a company may pass resolutions by submitting in writing proposals to be decided by all shareholders. However, resolutions are valid only if all shareholders agree in writing on the way by which the resolutions are adopted and the proposals are submitted. There is no provision in the law that mandates proxy voting by mail or email.	

		Article 71	(1) Shareholders with valid voting rights, either by themselves or by written proxies, are entitled to attend the GMS and exercise their voting rights. (2) In the voting, members of the board of directors and the commissioners and the company's employees may not serve as a proxy of a shareholder as referred to in paragraph (1).	**Company Law 1995**
		Article 78	(1) The company's articles of association may stipulate that a resolution of the GMS may be adopted by methods other than by way of a meeting. (2) If the articles of association stipulate the method as referred to in paragraph (1), the resolution may be adopted if all shareholders with valid voting rights have approved in writing the method and the resolution adopted.	
		Article 78 (Elucidation)	Paragraph (1) Resolutions of the GMS adopted through "other ways" are the resolutions taken by submitting in writing proposals to be decided to all shareholders, and these resolutions are valid only if all shareholders agree in writing the way by which the resolutions are adopted and the proposals are submitted. These other ways are not applicable for companies issuing bearer shares.	**Elucidation On Company Law 1995**
Shares not blocked before meeting	**1**	**SUMMARY**	There is no requirement in the Law for shareholders to deposit their shares before a general meeting.	
Cumulative voting/Proportional Representation	**0**	**SUMMARY**	There is no statutory requirement in the Company Law for companies to provide shareholders with rights of cumulative voting or proportional representation in the election of members of the boards of directors. A company may specify in its articles of association the procedures for election board of directors (Article 12).	
		Article 12	The articles of association shall at least contain: .... h. the procedures for election, appointment, replacement and discharge of members of the boards of directors and the commissioners; ….	**Company Law 1995**
Oppressed minorities mechanism - Judicial	**1**	**SUMMARY**	The Company Law provides a mechanism for shareholders to step out of the company by requiring the company to purchase their shares when they object to certain fundamental changes that affect their rights as shareholders (Article 55).	

venue/Obligatory share repurchase		**Article 55**	(1) If the acts of the company cause a shareholder or the company to incur losses, any shareholder may require the company to purchase his shares at a reasonable price if such shareholder does not approve the company acts, i.e.: a. the amendments to the articles of association; b. the sale, pledge, or exchange of a large portion or of all of the company's assets; or c. the merger, consolidation, or acquisition of the company. (2)	**Company Law 1995**
Preemptive rights	**1**	**SUMMARY**	Preemptive rights are provided by the Company Law and the Rules of Bapepam (the Indonesian Securities Regulator).	
		Rule No. IX.D.1	Decision of the Chairman of Bapepam, No. Kep 26/PM/2003 dated 17 July 2003. 1. Definitions: (a). A Preemptive Right is a right of an existing shareholder to purchase new Securities, including shares, Convertible Securities and Warrants, before they are offered to others. Such rights must be transferable.; (b). A Warrant is a Security issued by a company giving the holder the right to subscribe to shares of the company at a specified price, 6 (six) months or more after the Securities are issued. 2. Whenever an Issuer that has made a Public Offering or a Public Company desires to increase its capital stock, including through the issuance of Warrants or Convertible Securities, it must give every shareholder the Preemptive Right to subscribe to the new Securities in proportion to their percentage of ownership.	**RULE NUMBER IX.D.1 : PREEMPTIVE RIGHT, Decision of the Chairman of Bapepam, Number : Kep-26/PM/2003, Date : 17 July 2003**
		Article 36	(1) Unless otherwise stipulated in the articles of association, any shares issued to increase capital must first be offered to the other shareholders in proportion to the shareholding ratio for the relevant class of shares. (2) In case a shareholder fails to use its right to purchase the offered shares as referred to in paragraph (1), after the lapse of 14 (fourteen) days as after the offer, the company shall firstly offer the shares to its employees prior to offering such shares to other party. (3) The provisions concerning offer of shares to employees as referred to in paragraph (2) shall be further regulated by Government Regulations.	**Company Law 1995**
Percentage share capital to call an ESM <10%	**10%**	**SUMMARY**	The Company Law provides that one or more shareholders, who jointly hold no less than ten percent of the total amount of shares having valid voting rights, may demand an extraordinary general meeting.	

		Article 66	(1) The board of directors holds the annual GMS and is entitled to hold other GMS in the interests of the company. (2) The other GMS as referred to in paragraph (1) may be held upon the request of 1 (one) or more shareholders who jointly represent 1/10 (one tenth) of the total amount of shares having valid voting rights, or a lesser number as may be stipulated in the company's articles of association. (3) The request as referred to in paragraph (2) shall be submitted to the boards of directors or the commissioners by registered mail and must state the reasons therefor. (4) The GMS as referred to in paragraph (2) may discuss only matters relating to the reasons referred to in paragraph (3).	**Company Law 1995**
Mandatory dividend	**0**	**SUMMARY**	The Company Law requires that a company should allocate a certain amount of its net profits as reserves, until the reserves reach no less than twenty percent of the issued capital (Article 61). It further provides that, unless otherwise stipulated by the GMS, all net profits after being deducted by the allocation for reserves shall be distributed to shareholders as dividends (Article 62). However, there is no provision in the law for mandatory dividend.	
		Article 61	(1) In each financial year, the company must allocate a certain amount of its net profits as reserves. (2) The allocation of net profits referred to in paragraph (1) is created until the amount of the reserves is not less than 20% (twenty percent) of the issued capital. (3) The reserves referred to in paragraph (1) that have not reached the amount as stipulated in paragraph (2) may only be used to cover losses that cannot be covered by other reserves. (4) The provisions concerning the allocation of net profits for reserves and the utilization thereof shall be further regulated by Government Regulations.	**Company Law 1995**
		Article 62	(1) The utilization of net profits including the determination of the allocation amounts for the reserve fund referred to in Article 61 paragraph (1) shall be resolved by the GMS. (2) Unless otherwise stipulated by the GMS, all net profits after being deducted by the allocation for reserves referred to in Article 61 paragraph (1) shall be distributed to shareholders as dividends. (3) After the lapse of 5 (five) years, the uncollected dividends must be transferred to a reserve account specifically established for such purpose. (4) Collection of dividends as referred to in paragraph (3) shall be stipulated in the articles of association.	

Indonesia – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Reorganisation is covered in the Bankruptcy Law (Chapter II The Moratorium on Debt Repayment). The Indonesian government amended its bankruptcy laws in 1998 and established a new commercial court to deal with bankruptcy cases. Creditor rights during reorganisation and bankruptcy are provided in the Bankruptcy Law.	
Restrictions on going into reorganisation	**1**	**SUMMARY**	A debtor in financial difficulty can, at any time, petition for a Moratorium on Debt Repayment (MoDP) and the Bankruptcy Law provides that the court must immediately grant temporary moratorium on debt repayment (Article 214). However, the granting of a permanent MoDP requires the sanction of the court on the basis of the approval of more than one half of the unsecured creditors (Article 217).	
		Article 212	Article 212 Debtors who are unable, or expect that they will be unable, to continue paying those debts which have matured and must be paid, may request a moratorium on the repayment of their debts, with the general intention of presenting a reconciliation proposal that includes an offer to pay all or part of their debts to unsecured creditors.	**Bankruptcy Law 1998**
		Article 214	Article 214 1. The petition and its attachments must be made available at the Office of the Clerk of the Court, so that they may be perused free of charge by the public, in particular by the parties concerned. 2. The court must immediately grant temporary moratorium on debt repayment and must appoint a Supervising Judge from among the Court Judges, and appoint 1 (one) or more trustees who, together with the debtor, shall manage the debtor's assets.	

		Article 217	Article 217 .... (5). The granting of a permanent moratorium on debt repayment and the extension thereof shall be determined by the Court on the basis of the approval of more than 1/2 (one half) of the unsecured creditors whose rights are admitted or provisionally admitted present who represent at least 2/3 (two thirds) of all claims admitted or provisionally admitted of the unsecured creditors or their proxies present at such session, and any dispute which arises between the trustee and the creditors concerning the voting rights of the creditors must be decided by the Supervising Judge.	
No automatic stay on assets	**1**	**SUMMARY**	The Bankruptcy Law provides that secured creditors can enforce their rights even when a MoDP is in effect.	
		Article 230	Article 230 1. With due attention to the provisions of Article 231A, a moratorium on debt repayments shall not apply in respect of: a. claims guaranteed by pledge, security rights, collateral right on other property, or privileged claims in respect of certain goods belonging to the debtor; b. claims for payment for maintenance, supervision or training that must be paid, and the Supervising Judge must determine the amount of such claims collected prior to the moratorium on debt repayment which do not constitute claims with the right to be prioritized. 2. In the event that assets which are made as collateral by pledge, security rights and collateral rights to other assets are insufficient to secure claims, then the creditors secured by such collateral shall acquire rights as unsecured creditors, including the right to vote while the moratorium on debt repayment is in effect.	**Bankruptcy Law 1998**
		Article 231A	Article 231A The provision intended in Article 56A shall apply mutatis mutandis in respect of the exercise of creditors' rights as intended in Article 56 paragraph (1) and privileged creditors, with the provision that the postponement shall apply while the moratorium on debt repayment is in effect.	

		Article 56A	Article 56A 1. The creditor's execution right as intended in Article 56 paragraph (1) and the right of a third party to claim his assets which are under the control of the bankrupt debtor or the liquidator shall be deferred for a period of not more than 90 (ninety) days from the date the decision on the bankruptcy is determined. 2. The deferment as intended in paragraph (1) shall not apply to claims of creditors which are secured by cash and rights of creditors to reconcile debts.	
Secured creditors first (paid)	**1**	**SUMMARY**	Secured Creditors rank higher in priority to other creditors to the extent that the Secured Creditors would have prior entitlement only to the assets being used as security. If the claim of such Secured Lenders is not covered by the realization value of the security, unsettled claim would be considered unsecured (Article 230).	
		Article 56	Article 56 1. Bearing in mind the provisions of Article 56A, any creditor holding security rights, pledge or collateral right on other property, may execute his rights as if no bankruptcy occurred. ….	**Bankruptcy Law 1998**
		Article 56A	Article 56A 1. The creditor's execution right as intended in Article 56 paragraph (1) and the right of a third party to claim his assets which are under the control of the bankrupt debtor or the liquidator shall be deferred for a period of not more than 90 (ninety) days from the date the decision on the bankruptcy is determined. 2. The deferment as intended in paragraph (1) shall not apply to claims of creditors which are secured by cash and rights of creditors to reconcile debts.	

		Article 230	Article 230 1. With due attention to the provisions of Article 231A, a moratorium on debt repayments shall not apply in respect of: a. claims guaranteed by pledge, security rights, collateral right on other property, or privileged claims in respect of certain goods belonging to the debtor; b. claims for payment for maintenance, supervision or training that must be paid, and the Supervising Judge must determine the amount of such claims collected prior to the moratorium on debt repayment which do not constitute claims with the right to be prioritized. 2. In the event that assets which are made as collateral by pledge, security rights and collateral rights to other assets are insufficient to secure claims, then the creditors secured by such collateral shall acquire rights as unsecured creditors, including the right to vote while the moratorium on debt repayment is in effect.	
Management replaced (in reorganisation)	**1**	**SUMMARY**	On filing for MoDP, the Court will appoint one or more trustees and a supervisory judge. The trustee(s), together with the debtor, will engage in the management of the debtor's assets.	
		Article 214	Article 214 1. The petition and its attachments must be made available at the Office of the Clerk of the Court, so that they may be perused free of charge by the public, in particular by the parties concerned. 2. The court must immediately grant temporary moratorium on debt repayment and must appoint a Supervising Judge from among the Court Judges, and appoint 1 (one) or more trustees who, together with the debtor, shall manage the debtor's assets.	**Bankruptcy Law 1998**
Legal reserve required as a % of capital	**20%**	**SUMMARY**	The Company Law provides that a company should allocate a certain amount of its net profits as reserves, until the reserves reach no less than twenty percent of the issued capital (Article 61).	
		Article 61	Article 61 (1) In each financial year, the company must allocate a certain amount of its net profits as reserves. (2) The allocation of net profits referred to in paragraph (1) is created until the amount of the reserves is not less than 20% (twenty percent) of the issued capital. (3) The reserves referred to in paragraph (1) that have not reached the amount as stipulated in paragraph (2) may only be used to cover losses that cannot be covered by other reserves. (4) The provisions concerning the allocation of net profits for reserves and the utilization thereof shall be further regulated by Government Regulations.	**Bankruptcy Law 1998**

		Article 62	Article 62 (1) The utilization of net profits including the determination of the allocation amounts for the reserve fund referred to in Article 61 paragraph (1) shall be resolved by the GMS. (2) Unless otherwise stipulated by the GMS, all net profits after being deducted by the allocation for reserves referred to in Article 61 paragraph (1) shall be distributed to shareholders as dividends. (3) After the lapse of 5 (five) years, the uncollected dividends must be transferred to a reserve account specifically established for such purpose. (4) Collection of dividends as referred to in paragraph (3) shall be stipulated in the articles of association.	

Israel – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			On April 19, 1999, the Knesset approved the Companies Law-1999 (the "Law"), which updated and amended Israel's corporate law in a number of significant respects. The Law, which generally replaced the 1983 Companies Ordinance, became effective as of February 1, 2000. It attempted to modernise and streamline Israeli corporate law, which had not undergone a full-scale reform since the British Mandate, and moved corporate governance away from a British system to a more American one. The laws used were the Companies Law 5759-1999 and Nov 2002 update to Companies Regulations, obtained from Clearview Publications Ltd. No new laws relevant to these were passed in 2003 and no re-translations were carried out by Clearview in 2003.	
One share-one vote	**0**	**SUMMARY**	Israel does not have one share-one vote.	
		Section 82	Freedom to differentiate 82. (a) In its by-laws a company may prescribe different voting rights for different categories of shares. (b) The provision of subsection (a) shall not derogate from the provision of any other enactment. (c) If the company did not prescribe different voting rights in its by-laws, then each share shall have one vote.	**Companies Law**
Proxy by mail	**1**	**SUMMARY**	Sections 83 and 87 of the Companies Law allow voting by post.	
		Section 83	Manner of voting at meeting 83. (a) A share holder in a public company may vote in person or through a proxy, and also a vote by ballot under the provisions of Article Seven [=Section 87].	**Companies Law**

		[Article Seven] Section 87	Vote at General Meeting by Ballot 87. (a) The shareholders in a public company may vote at General Meetings and at Category Meetings on the following subjects by means of ballots, on which the shareholder shall indicate how he votes: (1) the appointment and discharge of Directors; (2) approval of acts and of transactions that require approval by the General Meeting under the provisions of sections 255 and 268 to 275; (3) approval of a merger under section 320; (4) any other subject in respect of which it is prescribed in the by-laws or under them that decisions of the General Meeting also be adopted by voting by ballot; (5) additional subjects, which the Minister prescribed under section 89. (b) A ballot shall be sent by the company to all its shareholders; a shareholder may indicate on the ballot how he votes and send it to the company. (c) A ballot, on which a shareholder indicated how he votes and which reached the company by the last date set therefor shall be deemed presence at the Meeting, for purposes of the quorum said in section 78. (d) If a ballot on a certain matter not voted on at the General Meeting is received by the company as said in subsection (a), then it shall be deemed an abstention on the vote at that meeting on a decision to hold a deferred meeting under the provisions of section 74, and it shall be counted at the deferred meeting held under the provisions of sections 74 or 79.	
Shares not blocked before meeting	**1**	**SUMMARY**	There is no reference to this in the laws.	
Cumulative voting/proportional representation	**0**	**SUMMARY**	There is no reference to cumulative voting or proportional representation in the Companies Law. Sections 59 and 85 indicate that directors are voted in by direct majority voting.	
		Section 59	Appointment of Directors The annual General Meeting shall appoint the Directors, unless there is a different provision in the by-laws.	**Companies Law**
		Section 85	Majority at General Meeting Decisions of a General Meeting shall be adopted by an ordinary majority, unless a different majority is prescribed by Law or by the by-laws.	
Oppressed minorities mechanisms -	**1**	**SUMMARY**	Companies Law section 191 grants aggrieved shareholders a method whereby they can get judicial redress. Furthermore, section 191 indicates that in some cases the company might have to repurchase shares of a shareholder discriminated against.	

Judicial venue/obligatory share repurchase		**Section 191**	Rights in case of discrimination 191. (a) If any of the affairs of the company were conducted in a manner that discriminates against some or all of its shareholders or if there is substantive suspicion that they will be so conducted, then the Court may - on application of a shareholder - issue instructions it deems appropriate in order to correct or prevent the discriminatory treatment, including instructions according to which the company's affairs will be conducted in the future, or instructions to the company's shareholders under which they or the company - subject to the provisions of section 301 - shall acquire some of its shares.	**Companies Law**
Preemptive rights	**0**	**SUMMARY**	The AGM of a public company can increase or decrease share capital (sections 57, 286, 287), but preemptive rights are only guaranteed in private companies (290).	
		Section 57	Powers vested in the General Meeting The company's decisions on the following matters shall be adopted by the General Meeting: (6) the increase and reduction of the registered share capital, in accordance with the provisions of sections 286 and 287;	**Companies Law**
		Section 286	Article Two: Registered Share Capital Increasing the registered share capital 286. The General Meeting may increase the company's registered share capital by categories of shares, as it shall prescribe.	
		Section 287	Cancellation of registered share capital The General Meeting may cancel registered share capital that has not yet been allocated, on condition that there are no undertakings of the company - including conditional undertakings - to allocate the shares.	
		Section 290	Entitlement to participate in future issues (a) In a private company, the issued capital of which consists of one category of shares, each shareholder shall be offered shares in proportion to his proportion of the issued share capital; the Board of Directors may offer to another person the shares a shareholder refused to acquire or to the offer of which he did not respond until the last date set therefor in the offer, all if there are no different provisions in the by-laws.	
Percentage share capital to call an ESM <10%	**5%**	**SUMMARY**	Holders of five percent of the share capital can call an extraordinary meeting.	

		Section 63	Convening an Extraordinary Meeting (b) The Board of Directors of a public company shall convene an Extraordinary Meeting at its own decision, and also on the demand of each of the following: (1) two Directors or one fourth of the serving Directors; (2) one or more shareholders who have at least 5% of the issued share capital and at least 1% of the voting rights in the company, or one or more shareholders who have at least 5% of the voting rights in the company.	**Companies Law**
Mandatory dividend	**0**	**SUMMARY**	There is no reference to a mandatory dividend in the laws relating to the dividend.	
		Section 307	Decision to distribute dividend A company's decision to distribute dividends shall be adopted by the company's Board of Directors, but a company may prescribe in its by-laws that the decision be adopted in one of the following two manners: (1) at the General Meeting, after the Board of Directors's recommendation was brought before it; the meeting may accept the recommendation or reduce the amount, but it must not increase it; (2) in the company's Board of Directors, after the General Meeting set the maximum amount of the distribution; (3) in some other manner prescribed in the by-laws, on condition that the Board of Directors was given a suitable opportunity to determine - before the distribution is made - that the distribution is not a prohibited distribution.	**Companies Law**

Israel – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Creditor rights in Israel are defined in the Companies Law and the Bankruptcy Ordinance.	
Restrictions on going into reorganisation	**1**	**SUMMARY**	The rules pertaining to compromise or arrangement say that seventy five percent of creditors or shareholders, as the case may be, have to agree to the compromise or arrangement.	
		Section 350	CHAPTER THREE: COMPROMISE OR ARRANGEMENT Authority to make compromise or arrangement 350. (a) If a compromise or arrangement was proposed between a company and its creditors or shareholders, or between it and a certain category of them, then the Court may - on the application by the company, a creditor or a shareholder, or by the liquidator, if the company is in liquidation - order that a General Meeting be called of those creditors or those shareholders, as the case may be, in the manner which the Court shall prescribe. [...] (i) If most of those present and voting at a meeting said in subsection (a), who jointly have three fourths of the value represented at the vote, agreed to a compromise or arrangement, and if the Court approved the compromise or arrangement, then that obligates the company and all creditors or shareholders or the category thereof, as the case may be, and in the case of a liquidation - the liquidator and each contributory.	**Companies Law**
No automatic stay on assets	**1**	**SUMMARY**	The rules pertaining to compromise or arrangement only allow for a stay on assets with the court's permission.	

		Section 350	CHAPTER THREE: COMPROMISE OR ARRANGEMENT Authority to make compromise or arrangement 350. (a) If a compromise or arrangement was proposed between a company and its creditors or shareholders, or between it and a certain category of them, then the Court may - on the application by the company, a creditor or a shareholder, or by the liquidator, if the company is in liquidation - order that a General Meeting be called of those creditors or those shareholders, as the case may be, in the manner which the Court shall prescribe. (b) The Court, to which the application for the compromise or arrangement said in subsection (a) (in this Chapter - the plan) was submitted may - if it is satisfied that it will help to concretize or approve a plan for the rehabilitation of the company - make an order, according to which - during a period of not more than nine months - it will be possible to continue or to initiate any proceeding against the company only with the Court's permission and on conditions which it shall prescribe (in this Chapter: freeze on proceedings order).	**Companies Law**
Secured creditors first (paid)	**1**	**SUMMARY**	Section 353 of the Companies Law says that insolvency follows the bankruptcy laws. Section eight and Article Three of the Second Schedule of the Bankruptcy Ordinance 5740-1980 state that secured creditors can realize their surety, and if this does not cover the debt the remaining is considered unsecured debt - wages etc. then have priority in the order of payout for other debts, as stated in section 354 of the Companies Law. Section 20 of the Bankruptcy Ordinance states that a secured creditor can realise his security without hindrance from the Official Receiver.	
		Section 353	Applicability of bankruptcy laws to winding up because of insolvency 353. In an insolvent company, procedure shall follow the bankruptcy laws applicable to the assets of a person proclaimed to be a bankrupt, as far as connected to the rights of secured and unsecured creditors, to debts that can be sued, to the valuation of annuities and of future and contingent obligations, and to the receipt of dividends.	**Companies Law**
		Section 8	Petition by secured creditor of the Bankruptcy Ordinance If the petitioning creditor is a secured creditor, then he shall either state in his petition that he is willing to give up his security for the creditors' benefit if the debtor is adjudged bankrupt, or give an estimate of the value of the security; having given a said estimate, he may be admitted as a petitioning creditor for the balance of debt due to him, after deduction of the value so estimated, as if he were an unsecured creditor.	**Bankruptcy Ordinance 5740-1980**

		Article Three Second Schedule	Claims by Secured Creditors 14. If a secured creditor realized his surety, then he may claim the balance of his debt in excess of the net amount realized. 15. If a secured creditor surrendered his surety to the Official Receiver or to the trustee to the general benefit of all creditors, then he may claim his entire debt.	
		Section 20	Effect of receiving order (a) When a receiving order has been made, the Official Receiver attached to the Court shall become the receiver of the debtor's assets, and thereafter - except as otherwise provided by this Ordinance - no creditor shall have a remedy against the debtor in respect of a claimable debt and shall not initiate any action or other legal proceedings, except with the Court's permission and on terms which it may see fit to impose. (b) The provisions of this section shall not derogate from a secured creditor's power to realize his security or to deal with it in any other manner.	
		Section 354	Preferred debts 354. (a) In a winding up the debts specified below shall have priority over all other debts, in the following order of priority: (1) (a) wages, as defined in the Wage Protection Law 5718-1958, due to an employee in respect of the period before the determining date, provided that the total wage which has priority does not exceed IS 36,370; (b) if compensation is given after the beginning of the tax year, the amount said in subparagraph (a) shall be increased at the rate of the compensation, from the day on which that compensation begins; that said increase shall be in effect until the following December 31; in this context, "compensation" and "rate of compensation", as defined in the National Insurance Law (Consolidated Version) 5728-1968 (hereinafter: the insurance law); (2) any amount deducted by the company from wages, under the Income Tax Ordinance, and not paid to the Assessing Officer; ...	**Companies Law**
Management replaced (in reorganisation)	**0**	**SUMMARY**	The chapter on Compromise or Arrangement does not mention the management being replaced during this process.	
Legal reserve required as a % of capital	**0**	**SUMMARY**	There is no reference to this in the laws.	

Jordan – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The main legislation governing corporate governance in Jordan, a civil law country, are: 1. The Companies Law (no. 22/1997), published in the Official Gazette No 4204 dated 15/5/97. The version referenced was that available at the website of the Jordanian Ministry of Industry & Trade, http://www.mit.gov.jo/commpanylowMenue_En.asp, and included updates up to 2002. No further updates were found. 2. The rules and regulations of the stock exchange at http://www.ammanstockex.com Other laws relevant to corporate governance, but not referenced in this report, are: The Securities Law (no. 76/2002) The Banks Law. Insurance Supervision Law (no. 33/1999). Privatisation Law The Jordanian Securities Commission is regulated by the Securities Law (no. 23/1997), available from the website of the Jordanian Securities Commission at http://www.jsc.gov.jo/. The Commission is tasked with the following (from Article 8 of Law no 23/1997): 1. Protecting investors in securities; 2. Regulating and developing the capital market to ensure fairness, efficiency and transparency; 3. Protecting the capital market from the risks that might face it. In order to achieve this is assumes the following main responsibilities and authorities: 1. Regulating and monitoring the issuance of securities and dealing therein; 2. Insuring full and accurate disclosure by Issuers of the material information necessary to investors and relevant to the public issuance of securities. 3. Regulating and monitoring disclosure including the periodic reports prepared by Issuers. 4. Regulating licensing and registration, and monitoring the activities of Licensed and Registered Persons in the capital market. 5. Regulating and monitoring the Stock Exchange and Trading Markets in Securities. 6. Regulating and monitoring the Center. 7. Regulating Mutual Funds and Investment Companies.	

			This report is written considering public shareholding companies. Note however, that in 2002 a new type of company was established, a private shareholding company, which can issue different types of securities (to be determined in the memorandum of association). The Amman Stock Exchange has three markets, called the First Market, the Second Market and the Third Market. Usually public shareholding companies enter in the Second Market and then, as they get a track record/bigger, they are promoted to the First Market. So generally speaking, blue chip companies trade in the First Market, with less liquid ones on the Second Market. Companies can fall from the First to Second Market. The Third Market is for unlisted companies. Further information on Corporate Governance in Jordan is available: 1. In a talk by Jalil Tarif, The Executive Manager of the Amman Stock Exchange, on September 7th 2003 and available at the GCGF website at http://www.gcgf.org/Round%20Tables/Middle%20East/Sept%207%20-%20Capital%20Markets%20-%20Jordan%20-%20Jalil%20Tarif_files/frame.htm 2. In a report by CIPE and GCGF available at http://www.gcgf.org/Round%20Tables/Middle%20East/REGIONAL_REPORT.pdf	
One share-one vote	**1**	**SUMMARY**	Article 178 of the Companies Law says 'to vote on resolutions … each according to the number of shares he represents'. There is no reference in any law to dual classes of shares, or non-voting shares.	
		Article 178	Every shareholder in the Public Shareholding Company who was registered in the Company register three days prior to the date set for any meeting of the General Assembly shall have the right to participate in discussing issues presented thereto and to vote on the decisions adopted by the Assembly regarding these issues, each according to the number of shares he represents in person and by proxy.	**Companies Law**
Proxy by mail	**0**	**SUMMARY**	A member (shareholder) can send his proxy form, authorising another person to vote on his behalf, in by mail, but the proxy has to be present when voting. Proxy voting by mail is not allowed.	
		Article 178	Every shareholder in the Public Shareholding Company who was registered in the Company register three days prior to the date set for any meeting of the General Assembly shall have the right to participate in discussing issues presented thereto and to vote on the decisions adopted by the Assembly regarding these issues, each according to the number of shares he represents in person and by proxy.	**Companies Law**

		Article 179	a) A shareholder in a Public Shareholding Company shall have the right to give a proxy to another shareholder to attend any meeting of the Company General Assembly. The proxy shall be in writing, on a special form prepared by the Company Board of Directors for this purpose with the approval of the Controller. Proxies must be deposited at the Company headquarters at least three days before the date set for the meeting of the General Assembly. The Controller, or any person delegated by him, shall examine the said proxies. The shareholder may also give a proxy to another person by virtue of a judicial power of attorney to attend the meeting on his behalf.	
Shares not blocked before meeting	**1**	**SUMMARY**	There is no reference in the Companies Law that states or implies that the shares are blocked before a meeting. The listing laws (Article 18C) say that trading in a company is suspended on the day of a meeting.	
		Listing law Article 18C.	Listing of Company shares on ASE shall be suspended on the day of regular General Assembly meetings of the Company.	**Listing laws of the Amman Stock Exchange**
Cumulative voting/Proportional representation	**0**	**SUMMARY**	Articles 132 and 178 (above) indicate that cumulative voting is not allowed. Article 133 says that the board members must own a certain number of shares to be eligible for the board, and that the company may decide upon this number, thereby avoiding proportional representation. A contact in Jordan (Samir Jardat of the Securities Depository Centre http://www.sdc.com.jo) says, when talking about proportional representation, 'Nothing in the law deals with the issue'.	
		Article 132	a) The management of a Public Shareholding Company is entrusted to a Board of Directors whose members shall not be less than three and not more than thirteen as determined by the Company Memorandum of Association. The members of the Board shall be elected by the Company General Assembly by means of a secret ballot in accordance with the provisions of this Law. The Board of Directors shall undertake the management of the Company for four years as from the date of its election. b) The Board of Directors shall invite the Company General Assembly to meet during the last three months of its term, in order to elect a new Board of Directors to replace it as of the date of its election, provided that the Board continues to manage the affairs of the Company until the new Board is elected if its election is delayed for any reason whatsoever….	**Companies Law**

		Article 133	a) The Public Shareholding Company Memorandum of Association shall specify the number of shares which must be held by a member to qualify for nomination as a member of the Board of Directors, and to retain his position as a member therein. Those shares should not be attached, mortgaged or under any other lien which prevents their unrestricted disposal. The restriction provided for in Article (100) of this Law, regarding prohibiting the disposal of founding shares, shall be excluded from this provision.	
Oppressed minorities mechanism - Judicial venue/obligatory share repurchase	**1**	**SUMMARY**	Concerning judicial venue, articles 157-160 allow a shareholder (amongst other people) to file a case in court if the company is managed negligently, if employees disclose secrets etc. Article 160 provides for judicial venue. Article 183 allows meetings to be contested in court, but does not say who can contest them. Article 275 allows shareholders with more than fifteen percent of the shares the right to get the controller to check the books of a company. Shareholders holding ten percent or less of a company do not have the right to get the controller to check the books of a company, but a single shareholder can refer decisions of the board of directors to the courts. There is no reference to obligatory share repurchase in the Companies Law.	
		Article 157	a) The chairman and the members of the Public Shareholding Company Board of Directors shall be held responsible towards the Company, shareholders and others for every violation committed by any of them or all of them of the laws and regulations in force and of the Company Memorandum of Association and for any error in the management of the Company. The consent of the General Assembly for absolving the Board from its responsibility shall not prevent legal recourse against the chairman and the Board of Directors. b) The liability stipulated in paragraph (a) of this Article shall be either personal, borne by one or more member of the Board of Directors, or collective, borne by the chairman and the members of the Board of Directors, and in such a case, they shall be jointly and severally liable for compensating the damage that results from the said violation or mistake. A member who has already objected to the decision containing the violation or mistake in the minutes of the meeting shall not be liable for such compensation. In all cases, the claim regarding this responsibility shall cease after the lapse of five years from the date the General Assembly meeting during which the Company annual balance sheet and its final accounts were approved.	**Companies Law**

		Article 158	The Public Shareholding Company chairman, members of the Board of Directors, its general manager or any of its employees, shall be prohibited from disclosing to any shareholder in the Company or to another, any information or data related to the Company and considered of a confidential nature, and which same acquired in their official capacity in the Company, or as a result of undertaking any business therefore or therein, at the risk of dismissal and being claimed for compensation for the damage that has been incurred by the Company. Information permitted to be published per current laws and regulations shall be excluded from the aforementioned. The General Assembly approval to release the chairman and members of the Board of Directors from this responsibility shall not absolve same from responsibility.	
		Article 159	The Public Shareholding Company chairman and the Board of Directors' members shall be jointly and severally responsible towards shareholders for any default or negligence in the management of the Company. However, upon the liquidation of the Company and the appearance of a deficit in its assets, in a manner that renders the Company unable to meet its obligations, and should the reason for such a deficit be the default or negligence of the chairman and members of the Board or its general manager or auditors, the Court shall have the right to hold any of the aforesaid persons liable for the debts of the Company in full or in part, as the case may be. The Court shall determine the amounts the said persons are liable for and whether they are jointly liable in the loss or not.	
		Article 160	The Controller, the Company and any shareholder therein shall have the right to file a case with the Court in accordance with the provisions of Articles 157, 158 and 159 of this Law.	

		Article 183	General Assembly Decisions, their Binding Power, and the ability to Contest Same a) Decisions issued by the General Assembly of a Public Shareholding Company at any of its meeting that convenes with the presence of a legal quorum, shall be binding upon the Board of Directors and all shareholders, whether they attended the said meeting or not, provided that these decisions have been adopted in accordance with the provisions of this Law and the regulations issued in pursuance. b) The Court shall have jurisdiction to look into and settle any case that may be presented for the purpose of contesting the legality of any of the meetings of the General Assembly, or contesting the decisions issued at any one of these meetings. Such contesting shall not halt the implementation of any decision of the General Assembly unless the Court decides otherwise. Such a case shall not be entertained after the lapse of three months from the date of the meeting.	
		Article 275	a) Shareholders holding not less than 15% of the capital of a Public Shareholding Company, a Private Shareholding Company, a Limited Partnership in Shares, or of a Limited Liability Company, or at least one-fourth of the members of the Board of Directors or Management Committees of any of them, as the case may be, may request the Controller to audit the Company operations and books. Should the Controller be convinced of the justifications of this request, he shall delegate one or more expert for this purpose. Should the auditing uncover any violation that necessitates investigation, the Minister may refer the issue to an investigation committee from the Directorate's employees to verify the violation and to study the report prepared by the expert. In this respect, the committee may look into papers and documents it deems necessary or audit anew some issues whose auditing it deems necessary. The committee also has the right to recommend to the Controller to direct the Company to apply the recommendations issued by it or to refer the issue to the competent Court, as the case may be.	
Preemptive rights	**0**	**SUMMARY**	Preemptive rights are allowed, but not automatically. The company's Memorandum of Association may disallow it.	
		Article 92	b) The Shareholding Company Articles of Association and Memorandum of Association should include the following information: 7. Whether the shareholders and the holders of convertible bonds hold preemptive right to subscribe for any new issues to be made by the Company.	**Companies Law**
Percentage share capital to call an ESM <10%	**15%/25%**	**SUMMARY**	Shareholders holding twenty five percent of the share capital are needed to call an ESM. With the auditors or Controller's request this drops to fifteen percent, as can be seen from Article 172.	

		Article 172	a) The General Assembly of a Public Shareholding Company shall hold an extraordinary meeting inside the Kingdom upon the invitation of the Board of Directors, or upon a written request submitted to the Board from shareholders holding not less than one-quarter of the Company subscribed shares, or upon a written request submitted by the Company auditors or the Controller, should shareholders holding in person not less than 15% of the Company subscribed shares request such a meeting.	**Companies Law**
Mandatory dividend	**0**	**SUMMARY**	There are no rules in the Companies Law stipulating the requirement for, or size of, the dividend. Article 186 discusses where dividends may be paid from (profits) but does not stipulate a size or need for them. There is no reference to dividend in the ASE listing rules or the Securities Law.	
		Article 186 As amended by the Temporary Law No. (40) for the year 2002.	a) The Public Shareholding Company may not distribute any dividends to its shareholders except from its profits, and after settling the rotated losses of the previous years. The Company shall deduct an amount equivalent to 10% of its annual net profit for the compulsory reserve account. No profits shall be distributed to shareholders before the deduction of such an amount. These deductions may not cease before the total amount accumulated in the account of the statutory reserve has become equal to one quarter of the Company subscribed capital. However, the Company may, with the approval of the General Assembly continue to deduct this annual ratio until this reserve equals the subscribed capital of the Company in full.	**Companies Law**

Jordan – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Jordan does not have a reorganisation law, the Companies Law only provides for liquidation (articles 252 – 277). Neither does Jordan have a corporate bankruptcy law separate from the provisions laid out in the Companies Law no. (22) of year 1997 and its amendments (information from the Ministry of Trade).	
Restrictions on going into reorganisation	**na**	**SUMMARY**	Jordan does not have reorganisation provisions.	
No automatic stay on assets	**na**	**SUMMARY**	Jordan does not have reorganisation provisions.	
Secured creditors first (paid)	**0**	**SUMMARY**	Employees and taxes have priority in a liquidation.	
		Article 256	The liquidator shall settle the Company's debts in accordance with the following order, after deducting liquidation expenses, including the remuneration of the liquidator, and any violation of this order shall be considered null and void: a) Amounts due to the Company employees. b) Amounts due to the Public Treasury and to the municipalities. c) Rents due to the owner of any real estate leased to the Company. d) Other amounts due in accordance with the order of priority in accordance with the Laws in force.	**Companies Law**
Management replaced (in reorganisation)	**na**	**SUMMARY**	Jordan does not have reorganisation provisions.	
Legal reserve required as a % of capital	**25%**	**SUMMARY**	If company losses exceed seventy give percent of the capital mandatory liquidation will occur.	

		Article 266	a) An application for mandatory liquidation shall be submitted to the Court by a pleading from the Attorney General, Controller or any person authorized by him in any of the following circumstances: **…** 4. Should the losses of the company exceed 75% of its subscribed capital, unless its General Assembly issues a decision to increase its capital.	**Companies Law**

Malaysia – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The relevant legislation is the Companies Act 1965 (Act 125), with amendments. The Companies Act is supplemented by the Listing Requirements of Kuala Lumpur Stock Exchange, 2001 (with amendments). The Listing Requirements used were those available on the KLSE Website at http://www.klse.com.my/website/documents/KLSE_ListReq2001-05012004.pdf including amendments up to 8/1/2004.	
One share-one vote	**1**	**SUMMARY**	Section 55 (1) of the Companies Act 1965 provides for one share-one vote. The Act provides, for public companies and their subsidiaries, that each equity share (including preference shares with voting rights) may carry only one vote thereby prohibiting the existence of both multiple voting and non-voting of ordinary shares. It does not allow firms to set a maximum number of votes per shareholder in relation to the number of shares he owns. If shares have different monetary denominations the votes are counted proportionally to their value (KLSE regulation 7.21).	
		Section 55 (1)	[…] that each equity share issued by such a company after the commencement of this Act shall confer the right at a poll at any general meeting of the company (subject as provided in Section 148(1)) to one vote, and, to vote only for each ringgit or part of a ringgit that has been paid up on that share.	**Companies Act 1965**
		7.21	Voting rights of shares of different monetary denominations: Where the capital of a company consists of shares of different monetary denominations, voting rights shall be prescribed in such a manner that a unit of capital in each class, when reduced to a common denominator, shall carry the same voting power when such right is exercisable.	**KLSE Listing Requirements**
Proxy by mail	**0**	**SUMMARY**	Section 149 of the Companies Act 1965 provides for a statutory right for the appointment of proxies. However, proxies have to be present in person, as indicated in the Act and KLSE regulations.	
		Section 149	(1) A member of a company entitled to attend and vote at a meeting of the company, or at a meeting of any class of members of the company, shall be entitled to appoint another person or persons (whether a member or not) as his proxy to attend and vote instead of the member at the meeting ...	**Companies Act 1965**
		7.20	Voting right of proxy: A proxy shall be entitled to vote on a show of hands on any question at any general meeting.	**KLSE Listing Requirements**

Shares not blocked before meeting	**1**	**SUMMARY**	The Articles of the KLSE contain no restriction on the transfer of fully paid securities that are quoted on it (except 16.03 Voluntary Suspension). Concerning meetings, KLSE listing rule 7.18 requires the company to find out who its members are three days before a general meeting.	
		7.18	Record of Depositor: (1) The company shall request the Central Depository in accordance with the Rules of the Central Depository, to issue a Record of Depositors to whom notices of general meetings shall be given by the company. (2) The company shall also request the Central Depository in accordance with the Rules of the Central Depository, to issue a Record of Depositors, as at a date not less than 3 market days before the general meeting (hereinafter referred to as "the General Meeting Record of Depositors"). (3) Subject to the Securities Industry (Central Depositories) (Foreign Ownership) Regulations 1996 (where applicable), a depositor shall not be regarded as a member entitled to attend any general meeting and to speak and vote thereat unless his name appears in the General Meeting Record of Depositors.	**KLSE Listing Requirements**
Cumulative voting/proportional representation	**0**	**SUMMARY**	While there is no provision in the Companies Act 1965 for cumulative voting, neither it is prohibited. Similarly, there is nothing in the Companies Act that mandates proportional representation. The Malaysian Code on Corporate Governance, which became mandatory for all companies listed on the KLSE as of June 1 2001, introduced a form of proportional representation (Section 4.27 onwards). It does not mandate proportional representation but aims to require companies to disclose the extent of compliance with the prescriptions of the Code and in this context, with its prescription that 1/3rd of the board should be independent of management and a significant shareholder.	
		4.27	This recommendation introduces a form of proportional representation. For example, if the significant shareholder holds shares representing two-thirds of the equity and two-thirds of the votes for the election of the directors of the company that has a board of 9 directors, and which wishes to satisfy this best practice, the holder can elect up to 6 directors who have interests in or relationships with the significant shareholder.	**Malaysian Code on Corporate Governance**

Oppressed minorities mechanisms - Judicial venue/obligatory share repurchase	**1**	**SUMMARY**	In the event the minority shareholders wish to challenge the decisions of the management, they may call for a meeting. However, to do this requires two or more members holding not less than one-tenth of the issued share capital (Section 145) Five percent of members can request a resolution to be placed before the next AGM (Section 151). There is also a Minority Shareholders Watchdog Committee in place in Malaysia where the minority shareholders can voice their concerns and opinion. Section 181 of the Companies Act allows for obligatory share repurchase.	
		Section 145 (1)	Two or more members holding not less than one-tenth of the issued share capital or, if the company has not a share capital, not less than five per centum in number of the members of the company or such lesser number as is provided by the articles may call a meeting of the company.	**Companies Act 1965**
		Section 151 (1)	(1) Subject to this section a company shall on the requisition in writing of such number of members of the company as is specified in sub-section (2) of this section and (unless the company otherwise resolves) at the expense of the requisitionists - (a) give to members of the company entitled to receive notice of the next annual general meeting notice of any resolution which may properly be moved and is intended to be moved at that meeting; and (b) circulate to members entitled to have notice of any general meeting sent to them any statement of not more than one thousand words with respect to the matter referred to in any proposed resolution or the business to be dealt with at that meeting. (2) The number of members necessary for a requisition under sub-section (1) of this section shall be - (a) any number of members representing not less than one-twentieth of the total voting rights of all the members having at that date of the requisition a right to vote at the meeting to which the requisition relates; or ...	

		Section 181	(1) Any member or holder of a debenture of a company, or in the case of a declared company under Part IX, the Minister, may apply to the Court for an order under this section on the ground - (a) that the affairs of the company are being conducted or that the powers of the directors are being exercised in a manner oppressive to one or more of the members or holders of debentures including himself or in disregard of his or their interests as members, shareholders or holders of debentures of the company; or ... (2) If on such application the Court is of the opinion that either of such grounds is established the Court may, with a view to bringing to an end or remedying the matters complained of, make such order as it thinks fit and without prejudice to the generality of the foregoing Order may - [...] (c) provide for the purchase of the shares or debentures of the company by other members or holders of debentures of the company or by the company itself; [...]	
Preemptive rights	**1**	**SUMMARY**	KLSE listing requires pre-emptive rights to be worked into the articles of association, although they can be nullified if the shareholders agree.	
		7.10	Issue of new shares to members Subject to any direction to the contrary that may be given by the company in general meeting, all new shares or other convertible securities shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion as nearly as the circumstances admit, to the amount of the existing shares or securities to which they are entitled. The offer shall be made by notice specifying the number of shares or securities offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and, after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares or securities offered, the directors may dispose of those shares or securities in such manner as they think most beneficial to the company. The directors may likewise also dispose of any new share or security which (by reason of the ratio which the new shares or securities bear to shares or securities held by persons entitled to an offer of new shares or securities) cannot, in the opinion of the directors, be conveniently offered under this article.	**KLSE Listing Requirements**
Percentage share capital to call an ESM <10%	**10%**	**SUMMARY**	Members holding ten percent or more of the share capital are needed to call for an ESM under Section 144(1). See also 145(1).	

		Section 144 (1)	The directors of a company, notwithstanding anything in its articles, shall on the requisition of members holding at the date of the requisition not less than one-tenth of such of the paid-up capital as at the date of the deposit carries the right of voting at general meetings or, in the case of a company not having a share capital, of members representing not less than one-tenth of the total voting rights of all members having at that date a right to vote at general meetings, forthwith proceed duly to convene an extraordinary general meeting of the company to be held as soon as practicable but in any case not later than two months after the receipt by the company of the requisition.	**Companies Act 1965**
		Section 145 (1)	[T]wo or more members holding not less than one-tenth of the issued share capital or, if the company has not a share capital, not less than five per centum in number of the members of the company or such lesser number as is provided by the articles may call a meeting of the company.	
Mandatory dividend	**0**	**SUMMARY**	There is no reference to a mandatory dividend in the Companies Act.	

Malaysia – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The Malaysian Bankruptcy Act 1967 is based on the 1914 UK bankruptcy law. Banks in Malaysia play a major governance role in insolvencies by appointing receivers or liquidators. However, for companies that are not insolvent but illiquid and that require to be restructured or rehabilitated, the procedures for turning control over to the banks (including the rules for them to change managers and directors) are not well established. Nonetheless, the legal environment, until recently, was more favourable to the creditors. The absence of well - established rules for the rehabilitation of companies may have caused firms suffering from illiquidity to be driven into insolvency. Malaysia has five options for dealing with financial distress in the corporate sector from outright liquidation to debt restructuring and reorganisation of the company as an ongoing concern. Two of the options, winding up and arrangement & reconstruction, have always existed in the Companies Act but the other three options (Corporate Debt Restructuring, Asset Management Company, and Restructuring of Small Borrowers) have emerged only recently. Winding Up Under Companies Act 1965 (Act 125) Part X (Sections 212 through 318) of the Act deals with winding up of companies. This part deals essentially with a terminal procedure where the intention is to liquidate and close the company. Under these provisions creditors can petition the High Courts to wind up a company because of failure to pay its debts. The Act provides for appointment of a liquidator/receiver, defines the powers of the liquidator, and establishes the priority and ranking of debt between and within different classes of creditors. The provisions under this part are extensive and provide a clear basis for winding-up. Schemes of Arrangement and Reconstruction Under Companies Act 1965 (Act 125) Part VII (Sections 176 through 181) of the Act deals with rehabilitation and restructuring of companies as ongoing concerns. Under this part of the Act, the High Court can permit a compromise or arrangement between a company and its creditors. A majority in number representing three-fourths in value of the creditors or class of creditors must agree to a reorganisation/compromise plan. The Court can also issue summary orders temporarily restraining creditors from proceeding against the company.	

			CORPORATE DEBT RESTRUCTURING COMMITTEE (CDRC) PROCESS Repossessing assets in bankruptcy is often very hard even for the secured creditors, with creditors often renegotiating outside of formal bankruptcy. Accordingly, from mid-August 1998, a CDRC has been established under the aegis and with the secretarial support of Bank Negara Malaysia (BNM), to provide a framework to enable creditors and debtors to arrive at schemes of compromise and reorganisation on a voluntary basis without resorting to legal processes. The aim of this scheme, based on the "London Approach" is to tackle the complex cases of indebtness with outstanding debt of at least RM50 million and with more than three creditors. ASSET MANAGEMENT COMPANY OR DANAHARTA Danaharta has been established in 1998 to acquire non-performing loans from banks and assets from distressed companies to minimise the problem of a credit crunch as well as to facilitate an orderly payment/write-down of debts. It will have the same claims as the original creditors and will rely on a number of asset disposal methods (including private placements, public auctions and public tender offers) to recover its claims. The legal process to be followed by Danaharta aims to compensate for the absence of a well-defined scheme of Judicial Management of corporate restructuring under the Companies Act. RESTRUCTURING OF SMALL BORROWERS For corporate borrowers with total outstanding debt of less than RM50 million, the Loan Monitoring Unit at BNM would provide assistance in enabling these borrowers to continue to receive financial support while restructuring their operations. In addition, these borrowers could also use the Danaharta route. For liquidation, Part X of the Companies Act 1965 applies. For court-approved schemes of arrangement, section 176 - 178 of the Companies Act 1965 applies. For special administration by Danaharta Corporation, the Pengurusan Danaharta Nasional Berhad Act 1998 applies. For court appointments of receivers, the First Schedule to the Courts of Judicature Act 1964 read with Order 30 of the Rules of the High Court 1980.	
Restrictions on going into	**1**	**SUMMARY**	A majority representing at least seventy five percent in value of the creditors need to agree for arrangements to become binding.	

reorganisation		**Section 176**	(1) where a compromise or arrangement is proposed between a company and its creditors or any class of them or between the company and its members or any class of them the Court may on the application in a summary way of the company being wound up of the liquidator, order a meeting of the creditors or class of creditors or of the members of the company or class of members to be summoned in such manner as the Court directs. (3) if a majority in number representing three-fourths in value of the creditors or class of creditors or members or class of members present and voting either in person or by proxy at the meeting or the adjourned meeting agrees to any compromise or arrangement, the compromise or arrangement shall if approved by order of the Court be binding on all the creditors or class of creditors or on the members or class of members and also on the company, or in the case of a company in the course of being wound up, on the liquidator and contributories of the company.	**Companies Act 1965**
No automatic stay on assets	**1**	**SUMMARY**	For arrangements and reconstructions, the Companies Act (section 176) only says that a court may grant a restraining order, not that it is automatic.	
		Section 176 (10A)	[T]he Court may grant a restraining order under subsection (10) to a company for a period of not more that ninety days or such longer period as the Court may for good reason allow.	**Companies Act 1965**
Secured creditors first (paid)	**1**	**SUMMARY**	Secured creditors are paid first. The order of priorities prescribed by law in Malaysia through sections 291 and 292 of the Companies Act 1965 and section 5(2) and 8 of the Bankruptcy Act 1967 as regards payment of debts in a liquidation are: I. secured debts II. preferential such as costs of the winding up, salary and wages, workers' compensation, remuneration in respect of vacation leave, contributions to superannuation or provident funds and lastly Federal (i.e. Malaysian Federal Government) taxes (Act 292) III. unsecured debts IV. shareholders.	

		Section 291	(1) In every winding up, subject in the case of insolvent companies to the application in accordance with the provisions of this Act of the law relating to bankruptcy in force for the time being in the States of Malaya, all debts payable on a contingency and all claims against the company present or future certain or contingent ascertained or sounding only in damages shall be admissable to proof against the company, a just estimate being made so far as possible of the value of such debts or claims as are subject to any contingency or sound only in damages or for some other reason do not bear a certain value. (2) Subject to section 292, in the winding up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and debts provable and the valuation of annuities and future and contingent liabilities as are in force for the time being under the law relating to bankruptcy in the States of Malaya in relation to the estates of bankrupt persons, and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding up and make such claims against the company as they respectively are entitled to by virtue under this section.	**Companies Act 1965**
		Section 292	(1) Subject to the provisions of this Act, in a winding up there shall be paid in priority to all other unsecured debts- (a) firstly, the costs and expenses of the winding up... (b) secondly, all wages or salary ... (c) thirdly, all amounts due in respect of worker's compensation...	
		Section 5(2)	(2) If the petitioning creditor is a secured creditor he must in his petition either state that he is willing to give up his security for the benefit of the creditors In the event of the debtor being judged bankrupt or give an estimate of the value of his security. In the latter case he may to the extent of the balance of the debt due to him, after deducting the value so estimated, be admitted as a petitioning creditor in the same manner as if he where an unsecured creditor.	**Bankruptcy Act 1967**

		Section 8	(1) On the making of a receiving order the Official Assignee shall be thereby constituted receiver of the property of the debtor, and thereafter, except as directed by this Act, no creditor to whom the debtor is indebted shall have any remedy against the property or person of the debtor in respect of the debt, or shall proceed with or commence any action or other legal proceeding in respect of such debt unless with the leave of the court and on such terms as the court may impose. (2) This section shall not affect the power of any secured creditor to realize or otherwise deal with his security in the same manner as he would have been entitled to realize or deal with it if this section had not been passed - nor shall it operate to prejudice the right of any person to receive any payment under or by virtue of the provisions of section 31 of the Employment Ordinance ...	
Management replaced (in reorganisation)	**0**	**SUMMARY**	Management is replaced in the arrangements and reconstruction section only if a restraining order is obtained from the Court.	
		Section 176 (10B)	[T]he person approved or appointed by the Court to act as a director of the company under subsection (10A) shall have a right of access at all reasonable times to the accounting and other records (including registers) of the company, and is entitled to require from any officer of the company such information and explanation as he may require for the purposes of his duty.	**Companies Act 1965**
Legal reserve required as a % of capital	**0**	**SUMMARY**	There is no reference to this in the Companies Act.	

Mexico – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The regulation for shareholder rights is mainly contained in the Ley General de Sociedades Mercantiles (Companies Law) and Ley de Mercado de Valores (Securities Market Law)	
One share -one vote	**1**	**SUMMARY**	Ordinary shares carry 'one vote per share' (article 113). Article 112, however, permits the company to issue other types of shares such as non-voting shares, or shares with limited voting rights (Article 113). The issuance of restricted voting capital may be established in the by-laws and allows the company to determine more cases where the holders of that kind of stock are restricted to vote. For both cases, previous consent of the NBSC is required. The issuance of securities different than common stock must not exceed twenty-five percent of the public float, but the NBSC may approve an extension up to another twenty-five percent, with the condition that those securities must be converted into common stocks in a period of no more than five years. The SML provides the possibility for enterprises to issue non-voting capital (Article 14 bis 3, Ley de Mercado de Valores). Articles 17 and 182 are included as they are mentioned in articles 112 and 113.	
		ARTICULO 112	Las acciones serán de igual valor y conferirán iguales derechos. Sin embargo, en el contrato social podrá estipularse que el capital se divida en varias clases de acciones con derechos especiales para cada clase, observándose siempre lo que dispone el artículo 17	**Ley General de Sociedades Mercantiles**
		ARTICULO 17	No producirán ningún efecto legal las estipulaciones que excluyan a uno o más socios de la participación en las ganancias.	
		ARTICULO 113	Cada acción sólo tendrá derecho a un voto; pero en el contrato social podrá pactarse que una parte de las acciones tenga derecho de voto solamente en las Asambleas Extraordinarias que se reúnan para tratar los asuntos comprendidos en las fracciones I, II, IV, V, VI y VII del artículo 182. (...)	

		ARTICULO 182	Son asambleas extraordinarias, las que se reúnan para tratar cualquiera de los siguientes asuntos: I.- Prórroga de la duración de la sociedad; II.- Disolución anticipada de la sociedad; (...) IV.- Cambio de objeto de la sociedad; V.- Cambio de nacionalidad de la sociedad; VI.- Transformación de la sociedad; VII.- Fusión con otra sociedad; (...)	
		ARTICULO 14 bis 3	II. Cuando obtengan autorización expresa de la Comisión Nacional Bancaria y de Valores y sin que para ello sea aplicable lo dispuesto en el artículo 198 de la Ley General de Sociedades Mercantiles, podrán emitir acciones sin derecho a voto, al igual que con la limitante de otros derechos corporativos, así como acciones de voto restringido distintas a las que prevé el artículo 113 del ordenamiento legal mencionado. La emisión de acciones distintas a las ordinarias no deberá exceder del veinticinco por ciento del capital social que se coloque entre el público inversionista, del total de acciones que se encuentren colocadas en el mismo. La Comisión Nacional Bancaria y de Valores podrá ampliar el límite señalado hasta por un veinticinco por ciento adicional, siempre que este último porcentaje esté representado por acciones sin derecho a voto, con la limitante de otros derechos corporativos o por acciones de voto restringido, que en todo caso, deberán ser convertibles en acciones ordinarias en un plazo no mayor a cinco años, contado a partir de su colocación (...)	**Ley de Mercado de Valores**
Proxy by Mail allowed	**0**	**SUMMARY**	There is no proxy by mail. Shareholders can nominate a representative to the general assembly who will have to show up in person to the meeting.	
		Artículo 192	Los accionistas podrán hacerse representar en las Asambleas por mandatarios, ya sea que pertenezcan o no a la sociedad. La representación deberá conferirse en la forma que prescriban los estatutos y a falta de estipulación, por escrito. No podrán ser mandatarios los Administradores ni los Comisarios de la sociedad.	**Ley General de Sociedades Mercantiles**
Shares not blocked before meeting	**1**	**SUMMARY**	Shares are not required to be blocked before a meeting. In the case of listed companies, securities have to be deposited in the Central Securities Deposit (INDEVAL). Depositors may not withdraw their securities from the INDEVAL from the day it issues a certificate for those securities to the day after the General Shareholders Meeting.	**Ley General de Sociedades Mercantiles**

Cumulative voting / Proportional representation	**1**	**SUMMARY**	In the case of public companies, minorities that represent at least ten percent of the shareholders' capital have the right to appoint one member to the board of directors (Consejo de Administración). In the case of non-public companies, minorities get this right if they represent at least 25% of shareholders' capital. There is no legal restriction regarding cumulative voting.	
		Artículo 144	Cuando los administradores sean tres o más, el contrato social determinará los derechos que correspondan a la minoría en la designación, pero en todo caso la minoría que represente un veinticinco por ciento del capital social nombrará cuando menos un consejero. Este porcentaje será del diez por ciento, cuando se trate de aquellas sociedades que tengan inscritas sus acciones en la Bolsa de Valores.	**Ley General de Sociedades Mercantiles**
Oppressed Minorities (Judicial Venue / Obligatory Share Repurchase)	**1**	**SUMMARY**	For both listed and unlisted companies, any shareholder having voted against some resolutions of the assembly such as: change of the company objectives, change of nationality of the firm or complete transformation of the company, has the right to ask the company to buy-back all the shares he owns at a price estimated as a proportion of the assets (activo social) of the last financial statement disclosed to the authorities. These investors have a maximum term of fifteen days after the day of the shareholders meeting to ask the issuer for the buy-back of their assets. Further, in the case of listed companies, the NBSC is considering the addition of other causes where shareholders can ask the company for a buy-back. Some of them are regarding to the board's approval of the following: transactions different from the original business of the company; policies regarding transactions with related persons; stock transactions involving more than ten percent of the firm's assets (Proposal of SML modification, article 14 Bis 3, X).	
		Artículo 206	Cuando la Asamblea General de Accionistas adopte resoluciones sobre los asuntos comprendidos en las fracciones IV, V y VI del artículo 182, cualquier accionista que haya votado en contra tendrá derecho a separarse de la sociedad y obtener el reembolso de sus acciones, en proporción al activo social, según el último balance aprobado siempre que lo solicite dentro de los quince días siguientes a la clausura de la asamblea.	**Ley General de Sociedades Mercantiles**

Preemptive right to new issues	**1**	**SUMMARY**	According to article 132, shareholders have preemptive rights over the issuance of new shares.	
		Artículo 132	Los accionistas tendrán derecho preferente, en proporción al número de sus acciones, para suscribir las que emitan en caso de aumento del capital social. Este derecho deberá ejercitarse dentro de los quince días siguientes a la publicación en el Periódico Oficial del domicilio de la sociedad, del acuerdo de la Asamblea sobre el aumento del capital social.	**Ley General de Sociedades Mercantiles**
% of share capital to call an ESM	**10%**	**SUMMARY**	Shareholders owning voting shares (even limited or restricted voting ones), and representing at least ten percent of capital stock of a listed company, can call for General Shareholders Meetings (both ordinary and extraordinary). In case of unlisted companies, the required ownership is thirty-three percent.	
		Artículo 14 Bis 3	(...) VI. En cuanto a las asambleas de accionistas: a) Los accionistas con acciones con derecho a voto, incluso en forma limitada o restringida, que representen cuando menos el diez por ciento del capital social podrán solicitar se convoque a una asamblea general de accionistas en los términos señalados en el artículo 184 de la Ley General de Sociedades Mercantiles;	**Ley de Mercado de Valores**
		Artículo 184	Los accionistas que representen por lo menos el treinta y tres por ciento del capital social, podrán pedir por escrito, en cualquier tiempo, al Administrador o Consejo de Administración o a los Comisarios, la Convocatoria de una Asamblea General de Accionistas, para tratar de los asuntos que indiquen en su petición. Si el Administrador o Consejo de Administración, o los Comisarios se rehusaren a hacer la convocatoria, o no lo hicieren dentro del término de quince días desde que hayan recibido la solicitud, la convocatoria podrá ser hecha por la autoridad judicial del domicilio de la sociedad, a solicitud de quienes representen el treinta y tres por ciento del capital social, exhibiendo al efecto los títulos de las acciones.	**Ley General de Sociedades Mercantiles**
Mandatory Dividend	**0**	**SUMMARY**	Only the issuers of limited voting shares are required to distribute a minimum of 5 per cent of their net income as dividends. If in a certain fiscal year, there were no dividends, such payments must be exercised in subsequent years. The deed of incorporation (Escritura constitutiva) of a company must include rules about the distribution of benefits and loses among shareholders.	

		Artículo 137	Las acciones de goce tendrán derecho a las utilidades líquidas, después de que se haya pagado a las acciones no reembolsables el dividendo señalado en el contrato social. El mismo contrato podrá también conceder el derecho de voto a las acciones de goce.	**Ley General de Sociedades Mercantiles**

Mexico – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The reorganisation and bankruptcy of corporations is governed by the Commercial Reorganisation and Bankruptcy Law. This law seeks to maximise the value of a company in financial distress, promote its viability and when possible, maintain its operation and payroll. The legal framework provides a balance between companies and creditors' rights in order to protect them equally. The bankruptcy regime shortens the bankruptcy procedure and encourages debt restructuring. Companies are not allowed to declare a "suspensión de pagos", a legal status that prevented them from declaring bankruptcy. The law includes the creation of the Federal Institute of Reorganisation and Bankruptcy Specialists, which provides technical assistance. The insolvency process comprises three stages: • Supervision Stage: its purpose is to verify, on the basis of an objective criterion, whether or not the firm has failed the commitment of their payment obligations to its creditors in a general way; • Conciliation Stage: its objective is to maximise the value of the firm in financial distress through a reorganisation agreement between the firm and its creditors. If a reorganisation agreement is not reached the Liquidation Stage follows. • Liquidation Stage: its objective is to preserve the firm's value through an orderly liquidation of its assets and satisfaction of the claims of its different creditors and stockholders, according to their respective rights	

Restrictions on going into reorganisation	**1**	**SUMMARY**	The nomination of the 'visitor', 'negotiator' (conciliador) or 'receiver' is a responsibility of the Federal Institute of Reorganisation and Bankruptcy Specialists, once the Institute receives a sentence from a judge. Such nomination may be challenged by any of the creditors within three days following the designation of such persons. No person in any of the following cases may act as visitor, negotiator or receiver: a. Husbands or wife, concubines or relatives within the fourth grade by consanguinity or second by affinity, of the merchant under reorganization or bankruptcy, of creditors or the Judge in charge of the proceeding. b. To be in the same situation as in paragraph a) for the members of the management bodies, when the Merchant is a company, and for the unlimited responsible partners. c. Lawyers, attorneys or authorized persons by the Merchant or any of its creditors in a pending trial. d. Maintain or have maintained during the last six months previous to its designation, any professional relation with the Merchant or any of its creditors, or have worked independently under its subordination. e. Being partner, lessor or tenant of the Merchant or any of its creditors, or f. To have a direct interest in the reorganization or bankruptcy, to be a "close friend" or "known enemy" of the Merchant or any of its creditors. Challenging the nomination of the visitor, negotiator or receiver does not cancel their functions or may suspend the visit, the conciliation or the liquidation. The merchants, auditors and creditors may, on an individual basis, indict any act or omission committed by the visitor, negotiator or receiver against the Law. Articles 10 and 20 give a brief description of the circumstances surrounding a reorganisation process (Proceso de Concurso). Under Article 161, both the administration of the company and its registered creditors can object to the articles of the reorganisation agreement. Creditors who hold at least fifty percent of the outstanding credits have the right to veto the agreement (Article 163).	

		Artículo 56	El nombramiento del visitador, conciliador o síndico podrá ser impugnado ante el juez por el Comerciante, y por cualquiera de los acreedores dentro de los tres días siguientes a la fecha en que la designación se les hubiere hecho de su conocimiento (...) La impugnación sólo se admitirá cuando se verifique alguno de los supuestos a que se refiere el artículo 328 de esta Ley. La impugnación se ventilará en la vía incidental.	**Ley de Concursos Mercantiles**
		Artículo 328	No podrán actuar como visitadores, conciliadores o síndicos en el procedimiento de concurso mercantil de que se trate, las personas que se encuentren en alguno de los siguientes supuestos: I. Ser cónyuge, concubina o concubinario o pariente dentro del cuarto grado por consanguinidad o segundo por afinidad, del Comerciante sujeto a concurso mercantil, de alguno de sus acreedores o del juez ante el cual se desarrolle el procedimiento; II. Estar en la misma situación a que se refiere la fracción anterior respecto de los miembros de los órganos de administración, cuando el Comerciante sea una persona moral y, en su caso, de los socios ilimitadamente responsables; III. Ser abogado, apoderado o persona autorizada, del Comerciante o de cualquiera de sus acreedores, en algún juicio pendiente; IV. Mantener o haber mantenido durante los seis meses inmediatos anteriores a su designación, relación laboral con el Comerciante o alguno de los acreedores, o prestarle o haberle prestado durante el mismo periodo, servicios profesionales independientes siempre que éstos impliquen subordinación; V. Ser socio, arrendador o inquilino del Comerciante o alguno de sus acreedores, en el proceso al cual se le designe, o VI. Tener interés directo o indirecto en el concurso mercantil o ser amigo cercano o enemigo manifiesto del Comerciante o de alguno de sus acreedores. La incompatibilidad a que se refiere la fracción VI, será de libre apreciación judicial.	

		Artículo 10	Para los efectos de esta Ley, el incumplimiento generalizado en el pago de las obligaciones de un Comerciante a que se refiere el artículo anterior, consiste en el incumplimiento en sus obligaciones de pago a dos o más acreedores distintos y se presenten las siguientes condiciones: I. Que de aquellas obligaciones vencidas a las que se refiere el párrafo anterior, las que tengan por lo menos treinta días de haber vencido representen el treinta y cinco por ciento o más de todas las obligaciones a cargo del Comerciante a la fecha en que se haya presentado la demanda o solicitud de concurso, y II. El Comerciante no tenga activos enunciados en el párrafo siguiente, para hacer frente a por lo menos el ochenta por ciento de sus obligaciones vencidas a la fecha de la demanda. (...)	
		Artículo 20	El Comerciante que considere que ha incurrido en el incumplimiento generalizado de sus obligaciones en términos de cualquiera de los dos supuestos establecidos en el artículo 10 de esta Ley, podrá solicitar que se le declare en concurso mercantil.	
		Artículo 161	El conciliador, una vez que considere que cuenta con la opinión favorable del Comerciante y de la mayoría de Acreedores Reconocidos necesaria para la aprobación de la propuesta de convenio, la pondrá a la vista de los Acreedores Reconocidos por un plazo de diez días para que opinen sobre ésta y, en su caso, suscriban el convenio (...)	
		Artículo 162	El juez al día siguiente de que le sea presentado el convenio y su resumen para su aprobación, deberá ponerlos a la vista de los Acreedores Reconocidos por el término de cinco días, a fin de que, en su caso: I. Presenten las objeciones que consideren pertinentes, respecto de la autenticidad de la expresión de su consentimiento, y II. Se ejerza el derecho de veto a que se refiere el artículo siguiente.	
		Artículo 163	El convenio podrá ser vetado por una mayoría simple de Acreedores Reconocidos comunes, o bien por cualquier número de éstos, cuyos créditos reconocidos representen conjuntamente al menos el cincuenta por ciento del monto total de los créditos reconocidos a dichos acreedores. No podrán ejercer el veto los Acreedores Reconocidos comunes que no hayan suscrito el convenio si en éste se prevé el pago de sus créditos en los términos del artículo 158 de este ordenamiento.	
No automatic Stay on Assets	**0**	**SUMMARY**	There is an automatic stay on assets from the moment the reorganisation process begins	

		Artículo 65	Desde que se dicte la sentencia de concurso mercantil y hasta que termine la etapa de conciliación, no podrá ejecutarse ningún mandamiento de embargo o ejecución contra los bienes y derechos del Comerciante.	**Ley de Concursos Mercantiles**
Secured creditors first (paid)	**0**	**SUMMARY**	Article 217 lists creditors according to their order of priority. Article 224 states that the credits mentioned under article 123, paragraph A, Item XXIII of the Mexican Constitution, have absolute priority over any of the credits mentioned in article 217. Article 123 describes those credits as workers' wages and redundancy payments.	
		Artículo 217	Los acreedores se clasificarán en los grados siguientes, según la naturaleza de sus créditos: I. Acreedores singularmente privilegiados; II. Acreedores con garantía real; III. Acreedores con privilegio especial, y IV. Acreedores comunes.	**Ley de Concursos Mercantiles**
		Artículo 224	Son créditos contra la Masa y serán pagados en el orden indicado y con anterioridad a cualquiera de los que se refiere el artículo 217 de esta Ley: I. Los referidos en la fracción XXIII, apartado A, del artículo 123 constitucional y sus disposiciones reglamentarias (...)	
		Artículo 123	El Congreso de la Unión, sin contravenir a las bases siguientes, deberá expedir leyes sobre el trabajo, las cuales regirán: A. Entre los obreros, jornaleros, empleados, domésticos, artesanos y, de una manera general, todo contrato de trabajo: XXIII. Los créditos en favor de los trabajadores por salario o sueldos devengados en el último año, y por indemnizaciones, tendrán preferencia sobre cualesquiera otros en los casos de concurso o de quiebra;	**Constitución Política**
Management Replaced	**0**	**SUMMARY**	The company is allowed to keep its administrative body, though a negotiator ('Conciliador') designated by the judge has the obligation to monitor the accounts and the way operations are managed. This negotiator decides about the resolution of outstanding contracts and will approve any new credits, etc. This negotiator could recommend the removal of the management.	

		Artículo 74	Durante la etapa de conciliación, la administración de la empresa corresponderá al Comerciante, salvo lo dispuesto en el artículo 81 de esta Ley.	**Ley de Concursos Mercantiles**
		Artículo 146	Dentro de los cinco días siguientes a que reciba la notificación de la sentencia de concurso mercantil, el Instituto deberá designar, conforme al procedimiento aleatorio previamente establecido, un conciliador para el desempeño de las funciones previstas en esta Ley salvo que ya se esté en alguna de las situaciones previstas en el artículo 147.	
		Artículo 75	Cuando el Comerciante continúe con la administración de su empresa, el conciliador vigilará la contabilidad y todas las operaciones que realice el Comerciante. El conciliador decidirá sobre la resolución de contratos pendientes y aprobará, previa opinión de los Interventores, en caso de que existan, la contratación de nuevos créditos, la constitución o sustitución de garantías y la enajenación de activos cuando no estén vinculadas con la operación ordinaria de la empresa del Comerciante. El conciliador deberá dar cuenta de ello al juez. Cualquier objeción se substanciará incidentalmente. En caso de sustitución de garantías, el conciliador deberá contar con el consentimiento previo y por escrito del acreedor de que se trate.	
		Artículo 81	En caso de que el conciliador estime que así conviene para la protección de la Masa, podrá solicitar al juez la remoción del Comerciante de la administración de su empresa. Al admitir la solicitud, el juez podrá tomar las medidas que estime convenientes para conservar la integridad de la Masa. La remoción del Comerciante se tramitará por la vía incidental.	
		Artículo 82	Si se decreta la remoción del Comerciante de la administración de su empresa, el conciliador asumirá, además de las propias, las facultades y obligaciones de administración que esta Ley atribuye al síndico para la administración.	
Legal Reserve	**20%**	**SUMMARY**	Article 20 states that the legal reserve is twenty percent of the total share capital	
		Artículo 20	De las utilidades netas de toda sociedad, deberá separarse anualmente el cinco por ciento, como mínimo, para formar el fondo de reserva, hasta que importe la quinta parte del capital social. El fondo de reserva deberá ser reconstituído de la misma manera cuando disminuya por cualquier motivo.	**Ley General de Sociedades Mercantiles**

		Artículo 21	Son nulos de pleno derecho los acuerdos de los administradores o de las juntas de socios y asambleas, que sean contrarios a lo que dispone el artículo anterior. En cualquier tiempo en que, no obstante esta prohibición, apareciere que no se han hecho las separaciones de las utilidades para formar o reconstituir el fondo de reserva, los administradores responsables quedarán ilimitada y solidariamente obligados a entregar a la sociedad, una cantidad igual a la que hubiere debido separarse. Quedan a salvo los derechos de los administradores para repetir contra los socios por el valor de lo que entreguen cuando el fondo de reserva se haya repartido. No se entenderá como reparto la capitalización de la reserva legal, cuando esto se haga, pero en este caso deberá volverse a constituir a partir del ejercicio siguiente a aquel en que se capitalice, en los términos del artículo 20.	

Morocco – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The code of commerce and laws relative to companies in Morocco were reformed in 1996 and 1997. These new laws, mainly based on the regulations in France, largely replace the former laws of 1913. The main types of companies are: Société Anonyme (SA), Société à Responsabilité limitée (SARL), and Groupement d'Intérêt Economique (GIE). All the following information relates to the SA form of company, unless otherwise stated. The relevant Articles used to understand shareholder and creditor rights remain unchanged since the previous report. The laws were obtained from the following sources, both being official websites of the Moroccan government: 'Law enacting a Code of Commerce', short title used here is the Code of Commerce Dahir n° 1-96-83 du 15 rabii 1417 (1er août 1996) portant promulgation de la loi n° 15-95 formant code de commerce (Bulletin officiel n° 4418 du 19 joumada I 1417 (3 octobre 1996) http://www.justice.gov.ma/fr/bulletinofficiel/tribcommerce/codecommerce.htm Law Governing Corporations, or Corporate Law Dahir n° 1-96-124 du 14 rabii II 1417 (30 aout 1996) portant promulgation de la loi n°17-95 relative aux Société Anonyme (SA) (appearing with the relevant Resolutions ('arrêtés'), Decrees (décrets), and Circulars (circulaires)), http://www.cdvm.gov.ma/documents/pdf/reglementation/94%20Dahir%20sur%20les%20SA.pdf For background information, there is a recent (October 2003) report on Corporate Governance in the MENA region (including Morocco) by CIPE (the Center for International Private Enterprise) and GCGF (the Global Corporate Governance Forum) available at http://www.gcgf.org/Round%20Tables/Middle%20East/REGIONAL_REPORT.pdf and a ROSC report (in French) on Corporate Governance in Morocco dated May 2003 available at http://www.worldbank.org/ifa/morrosc_aa.pdf	

One share -one vote	**1**	**SUMMARY**	Every ordinary share gives the right to one vote (Art. 259). There are three other types of shares: "double voting-right", "dividend priority without voting right" and "priority shares". The emission of shares with multiple voting right is forbidden except in one particular case. Double voting-right shares can be granted by the company rules when it is created or during an extraordinary general meeting (in this case, shares should have remained at least 2 years with the same shareholder). (Art. 257). If these shares are transmitted to a third party, they lose their double voting-right. If they are inherited or in case of a merger, they keep their double voting-rights. (Art. 258). Shares with dividend priority, without voting right, called "actions à dividende prioritaire sans droit de vote", must not exceed one quarter of the total capital. (Art. 261, Art. 263-271). Finally, priority shares "actions de priorité", give special benefits to its holders. (Art. 262) No detail is given concerning the conditions relative to these shares.	
		Art. 259	[…] le droit de vote attaché aux actions de capital ou aux actions de jouissance telles que définies à l'article 202 est proportionnel à la quotité de capital qu'elles représentent et chaque action donne droit à une voix au moins. […] L'émission d'actions à vote plural est interdite en dehors du cas prévu à l'article 257 précédent.	**"Dahir n° 1-96-124", 30 August 1996**
		Art. 257	[…] Un droit de vote double de celui conféré aux autres actions, eu égard à la quotité de capital social qu'elles représentent, peut-être attribué par les statuts ou une assemblée générale extraordinaire ultérieure, à toutes les actions entièrement libérées pour lesquelles il sera justifié d'une inscription nominative, depuis deux ans au moins au nom du même actionnaire. […]	
		Art. 261	[...], les statuts peuvent prévoir la création d'actions à dividende prioritaire sans droit de vote; elles sont régies par les articles 263 à 271. […]	
		Art. 263	[…] Les actions à dividende prioritaire sans droit de vote ne peuvent représenter plus du quart du montant du capital social. […]	
Proxy by Mail allowed	**0**	**SUMMARY**	Any shareholder can be represented at meetings by another shareholder, his wife (or husband), a parent or a child. There is no limit to the number of proxies one person can receive, unless otherwise stated. The proxy has to be signed by the shareholder, and mention his first and last name and address. The proxy is valid for only one meeting. However, proxy via mail or email is not currently allowed. […]	

		Art. 131	Un actionnaire peut se faire représenter par un autre actionnaire, par son conjoint ou par un ascendant ou descendant. […]	**"Dahir n° 1-96-124", 30 August 1996**
		Art. 132	La Procuration donnée pour se faire représenter à une assemblée par un actionnaire est signée par celui-ci et indique ses prénom, nom et domicile. [...] Le mandat est donné pour une seule assemblée. […]	
Shares not blocked before meeting	**1**	**SUMMARY**	There is no requirement for shares to be lodged with the company or a bank before an AGM or EGM.	**"Dahir n° 1-96-124", 30 August 1996**
Cumulative voting/ proportional representation	**0**	**SUMMARY**	There is no "cumulative voting" or "proportional representation" for SA companies.	**"Dahir n° 1-96-124", 30 August 1996**
Oppressed Minorities (Judicial Venue/ Obligatory Share Repurchase)	**1**	**SUMMARY**	Any shareholder opposing the transformation of a company into another type (for example, into SARL), has the right to withdraw from the company. He can get the company to repurchase his shares. In the case that an agreement on the value cannot be made, the value of the repurchase will be decided upon by an expert chosen by court (Art. 221).	
		Art. 221	Les actionnaires opposés à la transformation ont le doit de se retirer de la société. Dans ce cas, ils recevront une contrepartie équivalente à leurs droits dans le patrimoine social, fixée, à défaut d'accord, à dire d'expert désigné par le président du tribunal, statuant en référé. La déclaration de retraite doit être adressée par lettre recommandée avec accusé de réception dans les huit jours de la publication prévue à l'article 218 (2eme alinéa). […]	**"Dahir n° 1-96-124", 30 August 1996 6**
Preemptive right to new issues	**1**	**SUMMARY**	Shareholders have a right to buy a proportional number of shares of any future issue of common stock in order to maintain their fractional ownership. During the emission period of the new shares, this right to buy shares can be negotiated and traded under the same conditions as for the share itself. (Art. 189). The Shareholder general meeting deciding the increase in capital can suppress these preemptive rights for a part of, or for the total, amount. The price of emission or the rules for fixing this price are decided by the board of directors. The board of directors publishes a report with the names of the people who can buy shares and the number of shares for each person.	

		Art. 189	Les actionnaires ont un droit de préférence à la souscription des actions nouvelles de numéraire, proportionnellement au nombre d'actions qu'ils possèdent. […] Pendant la durée de la souscription, ce droit est négociable ou cessible dans les mêmes conditions que l'action elle-même. […]	**"Dahir n° 1-96-124", 30 August 1996 6**
		Art. 193	L'assemblée générale qui décide de l'augmentation du capital, peut, en faveur d'une ou plusieurs personnes, supprimer le droite préférentiel de souscription. [...] Le rapport du conseil d'administration ou du directoire indique en outre les noms des attributaires des actions et le nombre de titres attribués à chacun d'eux. […]	
		Art 197	Le délai accordé aux actionnaires anciens pour exercer leur droit de souscription ne peut jamais être inférieur à vingt jours avant la date d'ouverture de la souscription. […]	
% of share capital to call an ESM	**na**	**SUMMARY**	Contrary to the French law, the Moroccan law does not have any law about calling a meeting. Once a meeting is called, shareholders with more than five percent of the capital (or more than two percent if the total capital is more than DH 5 million) can amend the agenda.	
		Art. 117	L'ordre du jour des assemblées est arrêté par l'auteur de la convocation. Toutefois, un ou plusieurs actionnaires représentant au moins cinq pour cent du capital social ont la faculté de requérir l'inscription d'un ou de plusieurs projets de résolutions à l'ordre du jour. Lorsque le capital social de la société est supérieur à cinq millions de dirhams, le montant du capital à représenter en application de l'alinéa précédent est réduit à deux pour cent pour le surplus.	**"Dahir n° 1-96-124", 30 August 1996**
Mandatory Dividend	**0**	**SUMMARY**	It is forbidden to guarantee shareholders a fixed dividend (unless the State guarantees shares a minimum dividend). It is up to the general meeting to decide which part of the net income will be paid as dividend (Art. 331). Furthermore, the right to receive dividends is suppressed for shares the company holds.	
		Art. 331	[…] Il est interdit de stipuler au profit des actionnaires un dividende fixe; toute clause contraire est réputée non écrite à moins que l'Etat n'accorde aux actions la garantie d'un dividende minimal.	**"Dahir n° 1-96-124", 30 August 1996**
		Art. 334	Le droit aux dividendes est supprimé lorsque la société détient ses propres actions. […]	

Morocco – Creditor Rights

Creditor Rights		Relevant Article	Detail	Law
GENERAL SUMMARY			Moroccan law provides for reorganisation and liquidation in the case of insolvency. The commercial code codifies both reorganisation and liquidation. If the situation of the company is hopeless, then the court chooses liquidation. Otherwise, the court chooses a "redressement judiciaire", which is the equivalent of reorganisation. Within four months, a "plan de redressement", explaining what will be done to get the company out of trouble, must be presented to the judges. Eventually, after analysing this "plan de redressement", the court decides one of the three options: * The company can continue doing business: "plan de continuation" * The company is sold entirely or partially to an other company: "cession" * Liquidation: "liquidation judiciaire"	
Restrictions on going into reorganisation	**0**	**SUMMARY**	The CEO must file a request for reorganisation no later than fifteen days after turning insolvent. (Code of Commerce, Art. 561). The procedure, namely appealing to court in order to gain one of the above mentioned three decisions, can also be launched by a creditor, irrespective of the type of debt (CC, Art. 563). However, creditor consent is not a condition for going into reorganisation.	
		Art. 561	Le chef de l'entreprise doit demander l'ouverture d'une procédure de traitement au plus tard dans les quinze jours qui suivent la cessation de ses paiements.	**"Dahir n° 1-96-83", 1 August 1996**
		Art. 563	La procédure peut être ouverte sur l'assignation d'un créancier quelle que soit la nature de sa créance.	
		Art. 563	La procédure peut être ouverte sur l'assignation d'un créancier quelle que soit la nature de sa créance. […]	
No automatic Stay on Assets	**1**	**SUMMARY**	There are no regulations on automatic stay on assets during the reorganisation period ("redressement judiciaire") in the relevant law.	**"Dahir n° 1-96-83", 1 August 1996**

Secured creditors first (paid)	**1**	**SUMMARY**	Secured creditors are ranked first in the distribution of proceeds that result from the disposal of assets (CC-Art.630). These proceeds can be generated from the sale of fixed assets such as buildings (CC-Art. 622) or the sale of production assets (CC-Art.623). Two different types of creditors are mentioned in the CC: "hypothécaires" (this debt uses buildings as collateral). These creditors have absolute priority. The other type is "chirographaires" (CC-Art.631), which have priority over equity holders but not absolute majority. When a company goes bankrupt, it is forbidden to dispose even part of the assets to employees, or employees' relatives (to the 2nd degree) (Art. 366).	
		Art. 630	Si une ou plusieurs distributions de sommes précèdent la répartition du prix des immeubles, les créanciers privilégiés et hypothécaires admis concourent aux répartitions dans la proportion de leurs créances totales. Après la vente des immeubles et le règlement définitif de l'ordre entre les créanciers hypothécaires et privilégiés, ceux d'entre eux qui viennent en rang utile sur le prix des immeubles pour la totalité de leur créance ne perçoivent le montant de leur collocation hypothécaire que sous la déduction des sommes par eux reçues. […]	**"Dahir n° 1-96-83", 1 August 1996**
		Art. 366	La cession de tout ou partie de l'actif de la société en liquidation au liquidateur ou à ses employés, à leurs conjoints, parents ou alliés jusqu'au 2eme degré inclus est interdite même en cas de démission du liquidateur.	**"Dahir n° 1-96-124", 30 August 1996**
Management Replaced	**1**	**SUMMARY**	The courts can decide to replace one or more directors, if it decides this is crucial to the survival of the company.	
		Art. 584	Lorsque la survie de l'entreprise le requiert, le tribunal sur la demande du syndic ou d'office peut subordonner l'adoption d'un plan de redressement de l'entreprise au remplacement d'un ou plusieurs dirigeants. A cette fin, le tribunal peut prononcer l'incessibilité des actions, parts sociales, certificats de droit de vote détenus par un ou plusieurs dirigeants de droit ou de fait, rémunérés ou non, et décider que le droit de vote attaché sera exercé pour une durée qu'il fixe par un mandataire de justice désigné à cet effet. Il peut encore ordonner la cession de ces actions ou parts sociales, le prix de cession étant fixé à dire d'expert. […]	**"Dahir n° 1-96-83", 1 August 1996**
Legal Reserve	**0**	**SUMMARY**	There is no such regulation in the relevant law.	**"Dahir n° 1-96-83", 1 August 1996**

Pakistan –Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Pakistan inherited the legal system prevalent in British India and therefore is a common law country. Generally the Companies Ordinance 1984 (XLVII of 1984) regulates companies. It is available at http://www.secp.gov.pk/laws.htm. The version available there was last updated by the Companies (Second Amendment) Ordinance,2002. The listing rules of the Karachi Stock Exchange (KSE) (http://www.kse.com.pk, go to 'KSE' then 'Rules') are also referenced in this document.	
One share-one vote	**0**	**SUMMARY**	Pakistan company law (the ordinances) allows multiple classes of shares, each of which can have different voting rights.	
		Article 160	Provisions as to meetings and votes ... (4) In the case of a company having a share capital, every member shall have votes proportionate to the paid-up value of the shares or other securities carrying voting rights held by him according to the entitlement of the class of such shares or securities, as the case may be: Provided that, at the time of voting, fractional votes shall not be taken into account.	**Companies Ordinance 1984**
		Article 90	Classes and kinds of share capital. (1) A company limited by share may have different kinds of share capital and classes therein as provided by its memorandum and articles: Provided that different rights and privileges in relation to the different classes of shares may only be conferred in such manner as may be prescribed.	
Proxy by mail	**0**	**SUMMARY**	A member (shareholder) can send his proxy form, allowing the other person to vote on his behalf, by mail, but the proxy has to be present when voting.	

		Article 161	Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person, as his proxy to attend and vote instead of him, and a proxy so appointed shall have such rights as respects speaking and voting at the meeting as are available to a member…	**Companies Ordinance 1984**
Shares not blocked before meeting	**1**	**SUMMARY**	Shares are only lodged with the Company when required to be transferred. There is no mention in the law of the need to lodge shares with the Company or bank before an AGM or EGM. However, if the owner of the shares has not registered them in his own name in the members' register (the book that determines the ownership of shares) he will have to send them for transfer in his name to the company or its share registrar, to be entitled to receive any corporate action, attend the general meeting, etc. For this purpose the issuer of the security announces book-closure for a maximum period of fifteen days at a time with a limit of aggregate 45 days during the year.	
		Listing Regulation 14(5)	14. (1) The company shall give a minimum of 21 days notice to the Exchange prior to closure of Share Transfer Books for any purpose. Provided that companies quoted on Futures Contract shall give a minimum of two months notice for closure of Share Transfer Register subject to prior approval of dates by the Exchange. (2) The company shall treat the date of posting as the date of lodgement of shares for the purpose for which shares transfer register is closed, provided that the posted documents are received by the company before relevant action has been taken by the company. (3) The company shall issue transfer receipts immediately on receiving the shares for transfer. (4) The company shall not charge any transfer fee for transfer of shares. (5) The company shall provide a minimum period of 7 days but not exceeding15 days at a time for closure of Shares Transfer Register, for any purpose, not exceeding 45 days in a year in the whole.	**Listing regulations of the Karachi Stock Exchange**
Cumulative voting/proportional representation	**1**	**SUMMARY**	Article 178 of the Companies Ordinance allows cumulative voting. Concerning proportional representation, while under the Code of Corporate Governance (Listing Regulation 37 (i)) listed companies have been urged to encourage effective representation of independent non-executive directors including those representing minority shareholders on their Board of Directors, section 178 5c of the Ordinance provides procedure for election of Directors which clearly spells out that 'majority is authority.'	

		Article 178	Procedure for election of directors : ... (5) The directors of a company having a share capital shall, unless the number of persons who offer themselves to be elected is not more than the number of directors fixed under sub-section (1), be elected by the members of the company in general meeting in the following manner, namely : (a) a member shall have such number of votes as is equal to the product of the number of voting shares or securities held by him and the number of directors to be elected; (b) a member may give all his votes to a single candidate or divide them between more than one of the candidates in such manner as he may choose; and (c) the candidate who gets the highest number of votes shall be declared elected as director and then the candidate who gets the next highest number of votes shall be so declared and so on until the total number of directors to be elected has been so elected.	**Companies Ordinance 1984**
		Definition 21	"Member", means in relation to a company having share capital, a subscriber to the memorandum of the company and every person to whom is allotted or who becomes the holder of, any share, scrip or other security which gives him a voting right in the company and whose name is entered in the register of members, and, in relation to a company not having a share capital, any person who has agreed to become a member of the company and whose name is so entered.	
Oppressed minorities mechanisms - Judicial venue/obligatory share repurchase	**1**	**SUMMARY**	Shareholders with ten percent or more have a judicial venue. For example, under section 263 of the Companies Ordinance, upon an application from members holding at least ten percent of the share capital, the Securities and Exchange Commission of Pakistan may appoint an inspector to investigate the affairs of the company. Investigation may also be started by order of the Court or after a resolution to that effect passes in a general meeting.	
		Article 263	Investigation of affairs of company on application by members or report by registrar: The Commission may appoint one or more competent persons as inspector to investigate the affairs of any company and to report thereon in such manner as the Commission may direct (a) in the case of a company having a share capital, on the application of members holding not less than one-tenth of the total voting powers therein.	**Companies Ordinance 1984**

		Article 265	Investigation of company's affairs in other cases: Without prejudice to its power under Section 263, the Commission (a) shall appoint one or more competent persons as inspectors to investigate the affairs of a company and to report thereon in such manner as the Commission may direct, if (i) the company, by a resolution in general meeting, or (ii) the Court, by order, declares that the affairs of the company ought to be investigated by an inspector appointed by the Commission; and (b) may appoint one or more competent persons as inspectors to investigate the affairs of a company and to report whereon in such manner as the Commission may direct if in the opinion of the Commission there are circumstances suggesting (i) that the business of the company is being or has been conducted with intent to defraud its creditors, members or any other person or for a fraudulent or unlawful purpose, or in a manner oppressive of any of its members or that the company was formed for any fraudulent or unlawful purpose; or ... (iii) that the affairs of the company have been so conducted or managed as to deprive the members thereof of a reasonable return; or ...	
Preemptive rights	**1**	**SUMMARY**	The ordinary shareholders have a preemptive right to any new issue of shares by the company.	

		Article 86	Further issue of capital: - (1) Where the directors decide to increase the capital of the company by the issue of further shares, such shares shall be offered to the members in proportion to the existing shares held by each member, irrespective of class, and such offer shall be made by notice specifying the number of shares to which the member is entitled, and limiting a time within which the offer, if not accepted, will be deemed to be declined: Provided that the Federal Government may, on an application made by any public company on the basis of a special resolution passed by it, allow such company to raise its further capital without issue of right shares: Provided further that a public company may reserve a certain percentage of further issue of its employees under "Employees Stock Option Scheme" to be approved by the Commission in accordance with the rules made under this Ordinance. (2) The offer of new shares shall be strictly in proportion to the number of existing shares held: Provided that fractional shares shall not be offered and all fractions less than a share shall be consolidated and disposed of by the company and the proceeds from such disposition shall be paid to such of the entitled shareholders as may have accepted such offer. … (7) If the whole or any part of the shares offered under sub-section (1) is declined or is not subscribed, the directors may allot and issue such shares in such manner as they may deem fit.	**Companies Ordinance 1984**
Percentage share capital to call an ESM <10%	**10%**	**SUMMARY**	Section 159 of the Companies Ordinance states that shareholders holding at least ten percent of the voting rights can call an Extraordinary General Meeting.	
		Article 159	Calling of extraordinary general meeting. - (1) All general meetings of a company, other than the annual general meeting referred to in section 158 and the statutory meeting mentioned in section 157, shall be called extraordinary general meetings. (2) The directors may at any time call an extraordinary general meeting of the company to consider any matter which requires the approval of the company in a general meeting, and shall, on the requisition of members representing not less than one-tenth of the voting power on the date of deposit of the requisition, forthwith proceed to call an extraordinary general meeting.	**Companies Ordinance 1984**

Mandatory dividend	**0**	**SUMMARY**	Dividend payments must comply with Ordinance 248 and 249. There is no compulsion on listed companies to pay dividend. However, as part of good governance, the Listing Regulation 32 (1) b requires a payment of cash dividend or bonus shares (stock dividend) once every five years of operations with no minimum percentage threshold. Non-compliance of this requirement can result in placement of the company on defaulters' counter, suspension in trading of its shares or delisting of the company.	
		Article 248	Certain restrictions on declaration of dividends. (1) The company in general meeting may declare dividends; but no dividend shall exceed the amount recommended by the directors. (2) No dividend shall be declared or paid by a company for any financial year out of the profits of the company made from the sale or disposal of any immovable property or assets of a capital nature comprised in the undertaking or any of the undertakings of the company, unless the business of the company consists, whether wholly or partly, of selling and purchasing any such property or assets, except after such profits are set off or adjusted against losses arising from the sale of any such immovable property or assets of a capital nature.	**Companies Ordinance 1984**
		Article 249	Dividend to be paid only out of profits. No dividend shall be paid by a company otherwise than out of profits of the company.	
		Listing regulation 32	(1) A listed company may be de-listed, suspended or placed on the Defaulters' Counter, for any of the following reasons:- ... (b) if it has failed to declare dividend or bonus:- (i) for five years from the date of declaration of last dividend or bonus; or (ii) in the case of manufacturing companies, for five years from the date of commencement of production; and (iii) for five years from the date of commencement of business in all other cases.	**Listing regulations of the Karachi Stock Exchange**

Pakistan – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Pakistan's insolvency regime is a derivative of the legal system prevalent in British India prior to its establishment. Winding Up or liquidation law applies to companies and is contained in the Companies Ordinance 1984, although it also refers to the bankruptcy law contained in the Provincial Insolvency Act 1920 and the Insolvency (Karachi Division) Act 1090. Corporate rescue i.e. restructuring or receivership, is also covered by the Companies Ordinance. Additionally, new legislation has been enacted in 1997 to provide for recovery of corporate debt by banks and development finance institutions, namely the Banking Companies (Recovery of loans, advances, credits and finances) Act 1997. Recovery of debts due may also be initiated under the Civil Procedure Code, 1882.	
Restrictions on going into reorganisation	**1**	**SUMMARY**	Article 284 provides for creditors consent during compromises and arrangements.	
		Article 284	Power to compromise with creditors and members. (1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the Court may, on the application in a summary way of the company or of any creditor or member of the company or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be called, held and conducted in such manner as the Court directs. (2) If a majority in number representing three-fourth in value of the creditors or class of creditors, or members, as the case may be, present and voting either in person or, where proxies are allowed by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court be binding on all the creditors or the class of creditors or on the members or class of members, as the case may be, and also on the company, or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company	**Companies Ordinance 1984**
No automatic stay on assets	**1**	**SUMMARY**	There is no automatic stay on assets in case of reorganisation. Courts may stay assets, but do not have to.	

		Article 284	Power to compromise with creditors and members- (5) The Court may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding, against the company on such terms as it thinks fit and proper until the application is finally disposed of.	**Companies Ordinance 1984**
Secured creditors first (paid)	**1**	**SUMMARY**	When winding up an insolvent company, section 404 of the Companies Ordinance, 1984, stipulates that the Insolvency law is applicable. Under Section 47 of the Provincial Insolvency Act, 1920, a secured creditor may himself realise the security and prove for the balance due to him in the winding up proceedings. Any remaining debt is treated as unsecured and article 405 of the companies act then stipulates the order of payouts. In a creditors voluntary winding up all costs, charges and expenses incurred in the winding up including the remuneration of the liquidator shall after settlement of secured debts be paid out of the assets of the company in priority to all other claims (see section393).	
		Article 405	Preferential payments.- (1) In a winding up, there shall be paid in priority to all other debts- (a) all revenues, taxes, cases and rates due from the company to the Federal Government or a Provincial Government or to a local authority at the relevant date and having become due and payable within the twelve months next before that date; (b) all wages or salary (including wages payable for time or piece work and salary earned wholly or in part by way of commission) of any employee in respect of services rendered to the company and due for a period not exceeding four months within the twelve months next before the relevant date and any compensation payable to any workman under any law for the time being in force, subject to the limit specified in sub-section (2); ... (g) the expenses of any investigation held in pursuance of section 263 or section 265 in so far as they are payable by the company. ...	**Companies Ordinance 1984**
		Article 404	Application of insolvency rules in winding up of insolvent companies: In the winding up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of insolvency with respect to the estates for persons adjudged insolvent; and all persons who in any such case would be entitled to prove for and receive dividend out of the assets of the company may come in under the winding up, and make such claims against the company as they respectively are entitled to by virtue of this section.	

		Article 47	(1) Where a secured creditor realises his security, he may prove for the balance due to him, after deducting the net amount realised. (2) When a secured creditor relinquishes his security for the general benefit of the creditors, he may prove for his whole debt.	**Provincial Insolvency Act 1920**
		Article 393	Costs of voluntary winding up : All costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidator, shall subject to the rights of secured creditors, if any, be payable out of the assets of the company in priority to all other claims.	**Companies Ordinance 1984**
Management replaced (in reorganisation)	**0**	**SUMMARY**	There is no provision in the Ordinance requiring that the management be replaced during the reorganisation (i.e. in Articles 284 to 289 of the Companies Ordinance). Abid Hussain of the Securities and Exchange Commission of Pakistan and Ilyas Ahmed of the Karachi Stock Exchange confirmed this. Mr. Hussain, however, said that in practice Courts usually appoint an official to oversee the running of the business	
Legal reserve required as a % of capital	**0**	**SUMMARY**	There are no legal requirements to maintain any level of capital to avoid automatic liquidation. However, the creditors can request for an administrator to be appointed if the shares drop in value by more than seventy five percent.	
		Article 295	Management by Administrator: (1) If at any time a creditor or creditors having interest equivalent in amount to not less than sixty per cent, of the paid up capital of a company, represents or represent to the Commission that:- ... (d) any industrial project or unit to be set up or belonging to the company has not been completed or has not commenced operations or has not been operating smoothly or its production or performance has so deteriorated that - (i) the market value of its shares as quoted on the stock exchange or the net worth of its share has fallen by more than seventy-five per cent of its par value; or ... and request the Commission to take action under this section, the Commission may, after giving the company an opportunity of being heard, without prejudice to any other action that may be taken under this Ordinance or any other law, by order in writing, appoint an Administrator, hereinafter referred to as the Administrator within sixty days of the date of receipt of the representation, from a panel maintained by it on the recommendation of the State Bank of Pakistan to manage the affairs of the company subject to such terms and conditions as may be specified in the order.	**Companies Ordinance 1984**

Peru – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The corporate legal framework of Peru is set out in the Company Law 26887 of 1997 (Ley General de Sociedades 26887 de 1997).	
One share -one vote	**1**	**SUMMARY**	Ordinary shares have one vote per share (Article 82). The rights of this type of share are given in Article 95. The exception to the one-share-one vote principle refers to the cumulative voting rights of minority shareholders.	
		Artículo 82	Definición de acción Las acciones representan partes alícuotas del capital, todas tienen el mismo valor nominal y dan derecho a un voto, con la excepción prevista en el artículo 164 (elección por voto acumulativo) y las demás contempladas en la presente Ley.	**Ley General de Sociedades**
Proxy by Mail allowed	**0**	**SUMMARY**	Article 122, which describes the proxy rights of shareholders, makes no reference to proxy by mail.	
		Artículo 122	Representación en la Junta General Todo accionista con derecho a participar en las juntas generales puede hacerse representar por otra persona. El estatuto puede limitar esta facultad, reservando la representación a favor de otro accionista, o de un director o gerente. La representación debe constar por escrito y con carácter especial para cada junta general, salvo que se trate de poderes otorgados por escritura pública. Los poderes deben ser registrados ante la sociedad con una anticipación no menor de veinticuatro horas a la hora fijada para la celebración de la junta general.(...)	**Ley General de Sociedades**

Shares not blocked before meeting	**1**	**SUMMARY**	There is no article requiring that shares must be blocked before or after a shareholders meeting. Article 121 only refers to the requirement of shares to be registered in the registry book (Matrícula de acciones - Article 92) at least two days prior to the shareholders meeting.	
		Artículo 121	Derecho de concurrencia a la junta general Pueden asistir a la junta general y ejercer sus derechos los titulares de acciones con derecho a voto que figuren inscritas a su nombre en la matrícula de acciones, con una anticipación no menor de dos días al de la celebración de la junta general. (...)	**Ley General de Sociedades**
		Artículo 92	Matrícula de acciones En la matrícula de acciones se anota la creación de acciones cuando corresponda de acuerdo a lo establecido en el artículo 83. Igualmente se anota en dicha matrícula la emisión de acciones, según lo establecido en el artículo 84, sea que estén representadas por certificados provisionales o definitivos. En la matrícula se anotan también las transferencias, los canjes y desdoblamientos de acciones, la constitución de derechos y gravámenes sobre las mismas, las limitaciones a la transferencia de las acciones y los convenios entre accionistas o de accionistas con terceros que versen sobre las acciones o que tengan por objeto el ejercicio de los derechos inherentes a ellas. La matrícula de acciones se llevará en un libro especialmente abierto a dicho efecto o en hojas sueltas, debidamente legalizados, o mediante anotaciones en cuenta o en cualquier otra forma que permita la ley. Se podrá usar simultáneamente dos o más de los sistemas antes descritos; en caso de discrepancia prevalecerá lo anotado en el libro o en las hojas sueltas, según corresponda. El régimen de la representación de valores mediante anotaciones en cuenta se rige por la legislación del mercado de valores.	
Cumulative voting / Proportional representation	**1**	**SUMMARY**	Minorities have the right to be represented in the Board of Directors through cumulative voting. When different types of shares with different voting rights exist, each type of shareholder meets and casts its votes separately, but in each case cumulative voting will be observed.	

		Artículo 164	Elección por voto acumulativo Las sociedades están obligadas a constituir su directorio con representación de la minoría. A ese efecto, cada acción da derecho a tantos votos como directores deban elegirse y cada votante puede acumular sus votos a favor de una sola persona o distribuirlos entre varias. Serán proclamados directores quienes obtengan el mayor número de votos, siguiendo el orden de éstos. Si dos o más personas obtienen igual número de votos y no pueden todas formar parte del directorio por no permitirlo el número de directores fijado en el estatuto, se decide por sorteo cuál o cuáles de ellas deben ser los directores. Cuando existan diversas clases de acciones con derecho a elegir un número determinado de directores se efectúan votaciones separadas en juntas especiales de los accionistas que representen a cada una de esas clases de acciones pero cada votación se hará con el sistema de participación de la minoría. Salvo que los directores titulares hubiesen sido elegidos conjuntamente con sus respectivos suplentes o alternos, en los casos señalados en el párrafo final del artículo 157, se requiere el mismo procedimiento antes indicado para la elección de éstos. El estatuto puede establecer un sistema distinto de elección, siempre que la representación de la minoría no resulte inferior. No es aplicable lo dispuesto en el presente artículo cuando los directores son elegidos por unanimidad.	**Ley General de Sociedades**
Oppressed Minorities (Judicial Venue / Obligatory Share Repurchase)	**1**	**SUMMARY**	A shareholder may withdraw from the company either because the company has taken a decision of which he disapproves, or because he was deprived from casting his vote on the matter being discussed, or because he could not be present at the time of voting. In case of withdrawal, the shares belonging to the shareholder are mandatorily re-purchased at a price agreed by him and the society. If no such agreement can be reached, the shares should be repurchased at a price equal to their weighted-average price over the last six months. Article 262: In the case of public companies (Sociedades Anónimas Abiertas), a company that buys itself out of the market should give its shareholders the right to withdraw and to have their respective share participation repurchased.	

		Artículo 200	Derecho de separación del accionista: la adopción de los acuerdos que se indican a continuación, concede el derecho a separarse de la sociedad: 1. El cambio del objeto social; 2. El traslado del domicilio al extranjero; 3. La creación de limitaciones a la transmisibilidad de las acciones o la modificación de las existentes; y, 4. En los demás casos que lo establezca la ley o el estatuto. Sólo pueden ejercer el derecho de separación los accionistas que en la junta hubiesen hecho constar en acta su oposición al acuerdo, los ausentes, los que hayan sido ilegítimamente privados de emitir su voto y los titulares de acciones sin derecho a voto. Aquellos acuerdos que den lugar al derecho de separación deben ser publicados por la sociedad, por una sola vez, dentro de los diez días siguientes a su adopción, salvo aquellos casos en que la ley señale otro requisito de publicación. El derecho de separación se ejerce mediante carta notarial entregada a la sociedad hasta el décimo día siguiente a la fecha de publicación del aviso a que alude el acápite anterior. Las acciones de quienes hagan uso del derecho de separación se reembolsan al valor que acuerden el accionista y la sociedad. De no haber acuerdo, las acciones que tengan cotización en Bolsa se reembolsarán al valor de su cotización media ponderada del último semestre. Si no tuvieran cotización, al valor en libros al último día del mes anterior al de la fecha del ejercicio del derecho de separación. El valor en libros es el que resulte de dividir el patrimonio neto entre el número total de acciones.	**Ley General de Sociedades**
		Artículo 262	Derecho de separación Cuando una sociedad anónima abierta acuerda excluir del Registro Público del Mercado de Valores las acciones u obligaciones que tiene inscritas en dicho registro y ello determina que pierda su calidad de tal y que deba adaptarse a otra forma de sociedad anónima, los accionistas que no votaron a favor del acuerdo, tienen el derecho de separación de acuerdo con lo establecido en el artículo 200. El derecho de separación debe ejercerse dentro de los diez días siguientes a la fecha de inscripción de la adaptación en el Registro.	
Preemptive right to new issues	**1**	**SUMMARY**	Article 207 establishes the right of incumbent shareholders to purchase new share issues pro-rata to the number of shares they own. However, by shareholders agreement, in the case of public companies (those owned by at least 750 shareholders), shareholders can waive their preemptive rights, unless it could be proven that by doing so any shareholder could end up acquiring a majority stake of the company shares (Item 2 of article 259).	

		Artículo 207	Derecho de suscripción preferente En el aumento de capital por nuevos aportes, los accionistas tienen derecho preferencial para suscribir, a prorrata de su participación accionaria, las acciones que se creen. Este derecho es transferible en la forma establecida en la presente ley. No pueden ejercer este derecho los accionistas que se encuentren en mora en el pago de los dividendos pasivos, y sus acciones no se computarán para establecer la prorrata de participación en el derecho de preferencia. No existe derecho de suscripción preferente en el aumento de capital por conversión de obligaciones en acciones, en los casos de los artículos 103 y 259 ni en los casos de reorganización de sociedades establecidos en la presente ley.	**Ley General de Sociedades**
		Artículo 259	Aumento de capital sin derecho preferente En el aumento de capital por nuevos aportes a la sociedad anónima abierta se podrá establecer que los accionistas no tienen derecho preferente para suscribir las acciones que se creen siempre que se cumplan los siguientes requisitos: 1. Que el acuerdo haya sido adoptado en la forma y con el quórum que corresponda, conforme a lo establecido en el artículo 257 y que además cuente con el voto de no menos del cuarenta por ciento de las acciones suscritas con derecho de voto; y, 2. Que el aumento no esté destinado, directa o indirectamente, a mejorar la posición accionaria de alguno de los accionistas. Excepcionalmente, se podrá adoptar el acuerdo con un número de votos menor al indicado en el inciso 1. anterior, siempre que las acciones a crearse vayan a ser objeto de oferta pública.	
% of share capital to call an ESM	**20%**	**SUMMARY**	Shareholders whose share ownership represents at least twenty percent of total outstanding share capital are allowed to call for an Extraordinary Shareholders Meeting.	

		Artículo 117	Convocatoria a solicitud de accionistas Cuando uno o más accionistas que representen no menos del veinte por ciento de las acciones suscritas con derecho a voto soliciten notarialmente la celebración de la junta general, el directorio debe publicar el aviso de convocatoria dentro de los quince días siguientes a la recepción de la solicitud respectiva, la que deberá indicar los asuntos que los solicitantes propongan tratar. La junta general debe ser convocada para celebrarse dentro de un plazo de quince días de la fecha de la publicación de la convocatoria. Cuando la solicitud a que se refiere el acápite anterior fuese denegada o transcurriesen más de quince días de presentada sin efectuarse la convocatoria, el o los accionistas, acreditando que reúnen el porcentaje exigido de acciones, podrán solicitar al juez de la sede de la sociedad que ordene la convocatoria por el proceso no contencioso. Si el Juez ampara la solicitud, ordena la convocatoria, señala lugar, día y hora de la reunión, su objeto, quien la presidirá y el notario que dará fe de los acuerdos.	**Ley General de Sociedades**
Mandatory Dividend	**0**	**SUMMARY**	There is no mandatory dividend. Shareholders whose share ownership represents at least 20 percent of total outstanding share capital can request for the payment of a mandatory dividend of up to 50 percent of net income. This payment is allowed only after accounting for the Legal Reserve.	
		Artículo 231	Dividendo obligatorio Es obligatoria la distribución de dividendos en dinero hasta por un monto igual a la mitad de la utilidad distribuible de cada ejercicio, luego de detraído el monto que debe aplicarse a la reserva legal, si así lo solicitan accionistas que representen cuando menos el veinte por ciento del total de las acciones suscritas con derecho a voto. Esta solicitud sólo puede referirse a las utilidades del ejercicio económico inmediato anterior. El derecho de solicitar el referido reparto de dividendos no puede ser ejercido por los titulares de acciones que estén sujetas a régimen especial sobre dividendos.	**Ley General de Sociedades**

Peru – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Winding-up or liquidation law applies to companies and it is contained in a new bankruptcy law enacted in September 2002 (Ley General del Sistema Concursal de 2002). Reorganisation is covered under the same law. Additionally, the Peruvian Commercial Law (Ley General de Sociedades 26887) provides information about the mandatory legal reserve.	
Restrictions on going into reorganisation	**1**	**SUMMARY**	Article II describes the purpose of a reorganisation proceeding. In article III, creditors are given the right to approve the reorganisation proceedings according to the market viability of the company.	
		Artículo II	Finalidad de los procedimientos concursales Los procedimientos concursales tienen por finalidad propiciar un ambiente idóneo para la negociación entre los acreedores y el deudor sometido a concurso, que les permita llegar a un acuerdo de reestructuración o, en su defecto, a la salida ordenada del mercado, bajo reducidos costos de transacción.	**Ley del Sistema Concursal**
		Artículo III	Decisión sobre el destino del deudor La viabilidad de los deudores en el mercado es definida por los acreedores involucrados en los respectivos procedimientos concursales, quienes asumen la responsabilidad y consecuencias de la decisión adoptada.	

No automatic Stay on Assets	**0**	**SUMMARY**	There is an automatic stay on assets. Article 17, item 17.3 describes a case where a secured creditor could claim access to his collateral if this collateral belongs to a third party, but this is not an obligation that pertains directly to the debtor company. Item 17.1 describes that starting on the date the company files for reorganisation, all outstanding obligations and payments are frozen. Item 17.2 describes that this freeze will last until the Creditors meet and define the future of the company, be it through its reorganisation, refinancing or liquidation. Item 17.3 describes the rights of creditors to go after their collateralised assets in cases where those assets belong to a third party Item 17.4 describes the case where the company under insolvency proceedings belongs to a parent company domiciled in a foreign country. In this case, creditors are allowed to claim for the payment of their loans to the parent company through the appropriate legal venues.	
		Artículo 17º	Suspensión de la exigibilidad de obligaciones 17.1 A partir de la fecha de la publicación a que se refiere el Artículo 32º, se suspenderá la exigibilidad de todas las obligaciones que el deudor tuviera pendientes de pago a dicha fecha, sin que este hecho constituya una novación de tales obligaciones, aplicándose a éstas, cuando corresponda, la tasa de interés que fuese pactada por la Junta de estimarlo pertinente. En este caso, no se devengará intereses moratorios por los adeudos mencionados, ni tampoco procederá la capitalización de intereses. 17.2 La suspensión durará hasta que la Junta apruebe el Plan de Reestructuración, el Acuerdo Global de Refinanciación o el Convenio de Liquidación en los que se establezcan condiciones diferentes, referidas a la exigibilidad de todas las obligaciones comprendidas en el procedimiento y la tasa de interés aplicable en cada caso, lo que será oponible a todos los acreedores comprendidos en el concurso. 17.3 La inexigibilidad de las obligaciones del deudor no afecta que los acreedores puedan dirigirse contra el patrimonio de los terceros que hubieran constituido garantías reales o personales a su favor, los que se subrogarán de pleno derecho en la posición del acreedor original. 17.4 En el caso de concurso de una sucursal la inexigibilidad de sus obligaciones no afecta la posibilidad de que los acreedores puedan dirigirse por las vías legales pertinentes contra el patrimonio de la principal situada en territorio extranjero.	**Ley del Sistema Concursal**
Secured creditors first (paid)	**0**	**SUMMARY**	According to Article 42, workers are given absolute priority in cases of dissolution or liquidation of the company.	

		Artículo 42º	Orden de preferencia 42.1 En los procedimientos de disolución y liquidación, el orden de preferencia en el pago de los créditos es el siguiente: Primero: Remuneraciones y beneficios sociales adeudados a los trabajadores, aportes impagos al Sistema Privado de Pensiones o a los regímenes previsionales administrados por la Oficina de Normalización Previsional, la Caja de Beneficios y Seguridad Social del Pescador u otros regímenes previsionales creados por ley, así como los intereses y gastos que por tales conceptos pudieran originarse. Los aportes impagos al Sistema Privado de Pensiones incluyen expresamente los conceptos a que se refiere el Artículo 30º del Decreto Ley Nº 25897 [T.199,§054], con excepción de aquéllos establecidos en el literal c) de dicho artículo; Segundo: Los créditos alimentarios, hasta la suma de una (1) Unidad Impositiva Tributaria mensual; Tercero: Los créditos garantizados con hipoteca, prenda, anticresis, warrants, derecho de retención o medidas cautelares que recaigan sobre bienes del deudor, siempre que la garantía correspondiente haya sido constituida o la medida cautelar correspondiente haya sido trabada con anterioridad a la fecha de publicación a que se refiere el Artículo 32º. Las citadas garantías o gravámenes, de ser el caso, deberá estar inscrita en el registro antes de dicha fecha, para ser oponibles a la masa de acreedores. Estos créditos mantienen el presente orden de preferencia aun cuando los bienes que los garantizan sean vendidos o adjudicados para cancelar créditos de órdenes anteriores, pero sólo hasta el monto de realización o adjudicación del bien que garantizaba los créditos; Cuarto: Los créditos de origen tributario del Estado, incluidos los del Seguro Social de Salud - ESSALUD, sean tributos, multas, intereses, moras, costas y recargos; y, Quinto: Los créditos no comprendidos en los órdenes precedentes; y la parte de los créditos tributarios que, conforme al literal d) del Artículo 48.3, sean transferidos del cuarto al quinto orden; y el saldo de los créditos del tercer orden que excedieran del valor de realización o adjudicación del bien que garantizaba dichos créditos. 42.2 Cualquier pago efectuado por el deudor a alguno de sus acreedores, en ejecución del Plan de Reestructuración o el Convenio de Liquidación, será imputado, en primer lugar, a las deudas por concepto de capital luego a gastos e intereses, en ese orden.	**Ley del Sistema Concursal**

Management Replaced	**1**	**SUMMARY**	The Creditors Assembly will be responsible for choosing the company's management during the reorganisation proceedings. Creditors can opt for one of three options: (1) to keep the old management team (article 61.1 item 'a'), (2) to replace management (item 'b'), (3) or to create a mixed management body (item 'c'). Items 61.2 and 61.2 deal with the general provisions of keeping the old management team. Item 61.4 deals with the general provisions of changing management. Item 61.5 deals with the general provisions of creating a mixed management team. In this case, two directors representing creditors are appointed to the board. They have voting rights and veto powers for any agreement related to the disposition of the company's assets.	

		Artículo 61º	Régimen de administración 61.1 La Junta acordará el régimen de administración temporal del deudor durante su reestructuración patrimonial. Para este efecto, podrá disponer: a) La continuación del mismo régimen de administración; b) La administración del deudor por un Administrador inscrito ante la Comisión de conformidad con lo establecido en el Artículo 120º; o, c) Un sistema de administración mixta que mantenga en todo o en parte la administración del deudor e involucre obligatoriamente la participación de personas naturales y/o jurídicas designadas por la Junta. 61.2 Si la Junta opta por mantener el mismo régimen de administración, los directores, gerentes, administradores y representantes del deudor podrán permanecer en sus cargos hasta la conclusión de la reestructuración, sin necesidad de ratificación al término del período que se hubiese establecido en el estatuto social del deudor o en el régimen de poderes, salvo que la Junta varíe dicho acuerdo. 61.3 En este supuesto, la Junta podrá designar hasta dos representantes que tendrán la facultad de asistir a las sesiones del Directorio, o el órgano que haga sus veces según la naturaleza del deudor, con derecho a voz y a requerir información relativa a las actividades del deudor que estimen conveniente. 61.4 Si la Junta opta por la alternativa prevista en el literal b) del primer párrafo del presente artículo, la administración designada sustituirá de pleno derecho en sus facultades legales y estatutarias a los directores, gerentes, representantes legales y apoderados del deudor, sin reserva ni limitación alguna, pudiendo celebrar toda clase de actos y contratos. 61.5 Si la Junta opta por el régimen de administración mixto, designará a las personas que ocuparán los cargos administrativos y directivos que considere pertinentes. El Presidente de la Junta, bajo responsabilidad, informará a la Comisión, dentro del plazo de quince (15) días de adoptado el acuerdo, sobre la nueva estructura organizativa del deudor concursado, el nombre de los responsables de cada cargo y su fecha de designación. Las personas que gocen de facultades de representación del deudor mantendrán dichas facultades hasta que las mismas sean revocadas.	**Ley del Sistema Concursal**
Legal Reserve	**20%**	**SUMMARY**	The legal reserve is twenty percent of the share capital.	

		Artículo 229	Reserva legal Un mínimo del diez por ciento de la utilidad distribuible de cada ejercicio, deducido el impuesto a la renta, debe ser destinado a una reserva legal, hasta que ella alcance un monto igual a la quinta parte del capital. El exceso sobre este límite no tiene la condición de reserva legal. Las pérdidas correspondientes a un ejercicio se compensan con las utilidades o reservas de libre disposición. En ausencia de éstas se compensan con la reserva legal. En este último caso, la reserva legal debe ser repuesta. La sociedad puede capitalizar la reserva legal, quedando obligada a reponerla. La reposición de la reserva legal se hace destinando utilidades de ejercicios posteriores en la forma establecida en este artículo.	**Ley General de Sociedades**

Philippines – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			In the Philippines, shareholders' rights are provided for in the legislation, the Corporation Code of the Philippines (Batas Pambansa Bilang 68), 1980. The Code guarantees shareholders the right to: elect, remove and replace directors; vote on certain corporate acts; subscribe to the capital stock of the corporation; obtain information about the company; receive returns on their investment; appoint auditors and dissent on certain decisions of the board. The Articles of Incorporation lay down the specific rights and powers of shareholders with respect to the particular shares they hold, all of which are protected by law so long as they are not in conflict with the Corporation Code. The Securities Regulation Code (Republic Act No. 8799), 2000, introduced stricter rules related to listing, shareholder representation, board structure, and legal action against directors. The Securities and Exchange Commission (SEC) in its Resolution No.135, Series of 2002 dated April 04 2002, approved the promulgation and implementation of SEC Memorandum Circular No. 2 of 2002, the "Code of Corporate Governance". Compliance with this code is compulsory for all registered or listed corporations.	**c.f. Worldbank Philippines ROSC and ADB Asia Economic Monitor July 2002**
One share-one vote	**0**	**SUMMARY**	The Articles of Incorporation may divide the shares of stock of the corporation into classes and provide different rights, privileges and restrictions to each class of shares. The most common classes are common and preferred shares. The Code allows the issuance of non-voting shares so long as the company has another class of shares with complete voting rights. Other types of shares allowed under the Code are redeemable shares, founders' shares and treasury shares. The Corporation Code specifies that, unless provided in the articles of incorporation, all shares are equal. The Code also entitles non-voting shares to vote on specified matters.	**c.f. Worldbank Philippines ROSC http://www.worldbank.org/ifa/Philippinesrosc.pdf**

		Sec. 6	Classification of shares. - The shares of stock of stock corporations may be divided into classes or series of shares, or both, any of which classes or series of shares may have such rights, privileges or restrictions as may be stated in the articles of incorporation: Provided, that no share may be deprived of voting rights except those classified and issued as "preferred" or "redeemable" shares, unless otherwise provided in this Code: Provided, further, that there shall always be a class or series of shares which have complete voting rights. […] Except as otherwise provided in the articles of incorporation and stated in the certificate of stock, each share shall be equal in all respects to every other share. Where the articles of incorporation provide for non-voting shares in the cases allowed by this Code, the holders of such shares shall nevertheless be entitled to vote on the following matters: 1. Amendment of the articles of incorporation; 2. Adoption and amendment of by-laws; 3. Sale, lease, exchange, mortgage, pledge or other disposition of all or substantially all of the corporate property; 4. Incurring, creating or increasing bonded indebtedness; 5. Increase or decrease of capital stock; 6. Merger or consolidation of the corporation with another corporation or other corporations; 7. Investment of corporate funds in another corporation or business in accordance with this Code; and 8. Dissolution of the corporation. Except as provided in the immediately preceding paragraph, the vote necessary to approve a particular corporate act as provided in this Code shall be deemed to refer only to stocks with voting rights.	**The Corporation Code of the Philippines**
Proxy by mail	**0**	**SUMMARY**	Shareholders may vote in person or by written proxy, but proxy by mail is not mentioned in the law.	**The Corporation Code of the Philippines**
		Sec. 58	Proxies. - Stockholders and members may vote in person or by proxy in all meetings of stockholders or members. Proxies shall be in writing, signed by the stockholder or member and filed before the scheduled meeting with the corporate secretary.	
		Sec. 24	Election of directors or trustees. - At all elections of directors or trustees, there must be present, either in person or by representative authorized to act by written proxy, the owners of a majority of the outstanding capital stock, or if there be no capital stock, a majority of the members entitled to vote.	

		Sec. 20	Proxy Solicitations - 20.1. Proxies must be issued and proxy solicitation must be made in accordance with rules and regulations to be issued by the Commission; - 20.2. Proxies must be in writing, signed by the stockholder or his duly authorized representative and filed before the scheduled meeting with the corporate secretary.	**Securities Regulation Code (Republic Act No. 8799), approved July 19, 2000**
Shares not blocked before meeting	**1**	**SUMMARY**	There is no such requirement in the laws.	
Cumulative voting/Proportional Representation	**1**	**SUMMARY**	The Corporation Code defines and allows cumulative voting. The SEC Code of Corporate Governance mandates the use of cumulative voting in the election of directors. Proportional representation is not mentioned in legislation or rule.	
		Sec. 24	Sec. 24. Election of directors or trustees. - ..... In stock corporations, every stockholder entitled to vote shall have the right to vote in person or by proxy the number of shares of stock standing, at the time fixed in the by-laws, in his own name on the stock books of the corporation, or where the by-laws are silent, at the time of the election; and said stockholder may vote such number of shares for as many persons as there are directors to be elected or he may cumulate said shares and give one candidate as many votes as the number of directors to be elected multiplied by the number of his shares shall equal, or he may distribute them on the same principle among as many candidates as he shall see fit:	**The Corporation Code of the Philippines**
		V. para 1	1. Voting Right The Code mandates the use of cumulative voting in the election of directors.	**SEC Code of Corporate Governance – V. Stockholder's Rights and Protection of Minority Shareholders' Interests**
Oppressed minorities mechanism - Judicial venue/Obligatory share repurchase	**1**	**SUMMARY**	A shareholder has the right to dissent and demand payment of the fair value of his/her shares (appraisal right). The Corporation Code allows the exercise of the shareholders' appraisal rights when there are major changes in the company that have been adopted, including: a) an amendment to the articles of incorporation which changed or restricted his/her rights as a holder of a class of shares, or authorised preferences that are superior to those of the outstanding shares of any class; c) the term of corporate existence is extended or shortened; c) all or substantially all of the corporate assets will be disposed; d) the company will merge or consolidate with another company; and e) corporate funds will be invested in another corporation or business.	**c.f. Worldbank Philippines ROSC**

		Sec. 81	Sec. 81. Instances of appraisal right. - Any stockholder of a corporation shall have the right to dissent and demand payment of the fair value of his shares in the following instances: 1). In case any amendment to the articles of incorporation has the effect of changing or restricting the rights of any stockholder or class of shares, or of authorizing preferences in any respect superior to those of outstanding shares of any class, or of extending or shortening the term of corporate existence; 2). In case of sale, lease, exchange, transfer, mortgage, pledge or other disposition of all or substantially all of the corporate property and assets as provided in the Code; and 3). In case of merger or consolidation.	**The Corporation Code of the Philippines**
		Sec. 82	Sec. 82. How right is exercised. - The appraisal right may be exercised by any stockholder who shall have voted against the proposed corporate action, by making a written demand on the corporation within thirty (30) days after the date on which the vote was taken for payment of the fair value of his shares:	
		Sec. 85	Sec. 85. Who bears costs of appraisal. - The costs and expenses of appraisal shall be borne by the corporation, unless the fair value ascertained by the appraisers is approximately the same as the price which the corporation may have offered to pay the stockholder, in which case they shall be borne by the latter. In the case of an action to recover such fair value, all costs and expenses shall be assessed against the corporation, unless the refusal of the stockholder to receive payment was unjustified.	
Preemptive rights	**1**	**SUMMARY**	The Corporation Code and the SEC Code of Corporate Governance mandate that all stockholders have preemptive rights, unless there is a specific denial of this right in the articles of incorporation, which is not common. The PSE may require a public company to submit certification that all stockholders have waived their preemptive rights prior to a public offering. This right can be denied by company by-laws.	**c.f. Worldbank Philippines ROSC**
		Sec. 39	Sec. 39. Power to deny pre-emptive right. - All stockholders of a stock corporation shall enjoy pre-emptive right to subscribe to all issues or disposition of shares of any class, in proportion to their respective shareholdings, unless such right is denied by the articles of incorporation or an amendment thereto.	**The Corporation Code of the Philippines**
		V. para 2	All stockholders have pre-emptive rights, unless there is a specific denial of this right in the articles of incorporation or an amendment thereto. They shall have the right to subscribe to the capital stock of the corporation. The Articles of Incorporation may lay down the specific rights and powers of shareholders with respect to the particular shares they hold, all of which are protected by law so long as they are not in conflict with the Corporation Code.	**SEC Code of Corporate Governance – V. Stockholder's Rights and Protection of Minority Shareholders' Interests**

Percentage share capital to call an ESM <10%	**open**	**SUMMARY**	The Corporation Code authorises any shareholder or group of shareholders to petition the SEC to call a special meeting of the shareholders. The petitioning shareholders are responsible for preparing and distributing the agenda for the special meeting. In general, a voting shareholder may introduce a resolution or counter proposal during the meeting under "Other Matters" provided these do not require prior board approval.	**c.f. Worldbank Philippines ROSC**
		Sec. 50	Sec. 50. Regular and special meetings of stockholders or members. - Regular meetings of stockholders or members shall be held annually on a date fixed in the by-laws, .[..] Special meetings of stockholders or members shall be held at any time deemed necessary or as provided in the by-laws: Provided, however, that at least one (1) week written notice shall be sent to all stockholders or members, unless otherwise provided in the by-laws. [....] Whenever, for any cause, there is no person authorized to call a meeting, the Secretaries and Exchange Commission, upon petition of a stockholder or member on a showing of good cause therefor, may issue an order to the petitioning stockholder or member directing him to call a meeting of the corporation by giving proper notice required by this Code or by the by-laws. The petitioning stockholder or member shall preside thereat until at least a majority of the stockholders or members present have been chosen one of their number as presiding officer.	**The Corporation Code of the Philippines - Title V, By Laws; Sec. 50.**
Mandatory dividend	**0**	**SUMMARY**	The laws in the Philippines provide no specific requirement for mandatory dividend. According to the ROSC report by the Worldbank, shareholders have the right to receive dividends subject to the discretion of the board. However, the SEC may direct the corporation to declare dividends when its retained earnings exceed its shareholders equity.	**c.f. Worldbank Philippines ROSC**

Philippines – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The law governing the Philippine suspension of payments proceedings is not integrated into a single code. The substantive provisions governing reorganisation and liquidation are found in the Insolvency Act (Act No. 1956), which was enacted by the Philippine legislature in 1909 (amended by act 3692 in 1932), when the Philippines were a territory of the United States. The provisions governing priority of claims are found in the Civil Code (Republic Act No. 386), 1949. In early 2002, a draft of a new insolvency law was proposed (Corporate Recovery Act) and, as of Jan 2004, the bill is under consideration for approval in Congress. The draft Act provides debt relief and recovery measures to financially distressed enterprises and offers four modes of rehabilitation: pre-negotiated rehabilitation, fast-track rehabilitation, court-supervised rehabilitation, and dissolution-liquidation. Meanwhile, the Interim Rules of Procedure (A.M. No. 00-8-10-SC) developed by the Supreme Court in November 2000 to govern rehabilitation cases and the Securities Regulation Code, which transferred the quasi-judicial jurisdiction of the Securities and Exchange Commission over suspension of payments and rehabilitation proceedings to the Regional Trial Courts, remain in place.	**c.f. http://www.canb.uscourts.gov /canb/Documents.nsf/ bf0c3519af973 1c88825671 d00666479/ 4ec93b774e 1b958388256 7300067ce11 ?OpenDocument** **ADB Asia Economic Monitor July 2002**

Restrictions on going into reorganisation	**1**	**SUMMARY**	Any debtor or creditor may petition the Court to have the debtor placed under rehabilitation (Rule 4, Section 1). According to the Insolvency Law, for the court to sanction the Petition, the reorganisation plan will have to be approved in Creditors' meeting by a majority vote [meaning votes from 2/3 of all creditors and creditors representing 3/5 of the total liabilities] (Section 8, Insolvency Law). Without the majority vote, the plan is deemed rejected (Section 10), the proceedings of rehabilitation terminated, and the "parties concerned shall be at liberty to enforce the rights which may correspond to them" (Section 10). The 2000 Interim Rule of Procedure on Corporate Rehabilitation states that " the court may approve a rehabilitation plan even over the opposition of creditors holding a majority of the total liabilities of the debtor if, in its judgment, the rehabilitation of the debtor is feasible and the opposition of the creditors is manifestly unreasonable".	**Interim Rules of Procedure on Corporate Rehabilitation (A.M. No. 00-8-10-SC [November 21, 2000])**
		Rule 4, Sec. 1	Rule 4 REHABILITATION: Section 1. Who May Petition. - Any debtor who foresees the impossibility of meeting its debts when they respectively fall due, or any creditor or creditors holding at least twenty-five percent (25%) of the debtor's total liabilities, may petition the proper Regional Trial Court to have the debtor placed under rehabilitation.	
		Rule 4, Sec. 23	Rule 4, Sec. 23 (Approval of the Rehabilitation Plan), the court may approve a rehabilitation plan even over the opposition of creditors holding a majority of the total liabilities of the debtor if, in its judgment, the rehabilitation of the debtor is feasible and the opposition of the creditors is manifestly unreasonable. .... In approving the rehabilitation plan, the court shall issue the necessary orders or processes for its immediate and successful implementation. It may impose such terms, conditions, or restrictions as the effective implementation and monitoring thereof may reasonably require, or for the protection and preservation of the interests of the creditors should the plan fail.	
No automatic stay on assets	**0**	**SUMMARY**	Once the court finds the petition to be sufficient in form and substance, it will issue an Order staying enforcement of all claims (Rule 4, Sec. 6.).	**Interim Rules of Procedure on Corporate Rehabilitation (A.M. No. 00-8-10-SC [November 21, 2000])**
		Rule 4, Sec. 6	Sec. 6. Stay Order. - If the court finds the petition to be sufficient in form and substance, it shall, not later than five (5) days from the filing of the petition, issue an Order (a) appointing a Rehabilitation Receiver and fixing his bond; (b) staying enforcement of all claims, whether for money or otherwise and whether such enforcement is by court action or otherwise, against the debtor, its guarantors and sureties not solidarily liable with the debtor; (c) ....(j).	

		Rule 4, Sec. 11	Sec. 11. Period of the Stay Order. - The stay order shall be effective from the date of its issuance until the dismissal of the petition or the termination of the rehabilitation proceedings. The petition shall be dismissal if no rehabilitation plan is approved by the court upon the lapse of one hundred eighty (180) days from the date of the initial hearing.	
Secured creditors first (paid)	**0**	**SUMMARY**	The provisions governing priority of claims are found in the Civil Code. The Code provides detailed lists of "preference of credits". However, the government is given the priority over secured creditors (see Art 2241).	**Civil Code, Book IV, Title XIX, Chapter 2. - Classification of Credits**
		Art. 2241	Art. 2241: "With reference to specific movable property of the debtor, the following claims or liens shall be preferred: (1) Duties, taxes and fees due thereon to the State or any subdivision thereof; (2) Claims arising from misappropriation, breach of trust, or malfeasance by public officials committed in the performance of their duties, on the movables, money or securities obtained by them;..... " and;	
		Art. 2242	Art. 2242. With reference to specific immovable property and real rights of the debtor, the following claims, mortgages and liens shall be preferred, and shall constitute an encumbrance on the immovable or real right: (1) Taxes due upon the land or building; (2) For the unpaid price of real property sold, upon the immovable sold; (3) Claims of laborers, ..., other workmen....; (4) Claims of furnishers of materials used in the construction, reconstruction, ...; (5) Mortgage credits recorded in the Registry of Property, upon the real estate mortgaged;	
Management replaced (in reorganisation)	**0**	**SUMMARY**	The Interim Rules state that the management of the debtor stays.	**Interim Rules of Procedure on Corporate Rehabilitation (A.M. No. 00-8-10-SC [November 21, 2000])**
		Rule 4, Sec. 14	Sec. 14. Powers and Functions of the Rehabilitation Receiver. - The Rehabilitation Receiver shall NOT take over the management and control of the debtor but shall closely oversee and monitor the operations of the debtor during the pendency of the proceedings, and for this purpose shall have the powers, duties and functions of a receiver under Presidential Decree No. 902-A, as amended, and the Rules of Court.	
Legal reserve required as a % of capital	**0**	**SUMMARY**	There is no specific provision for a legal reserve.	

Poland – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The Commercial Companies Code of 15 September 2000 (Journal of Laws no 94/1037 which entered into force on 1 January 2001) replaces the old Commercial Code of 1934. The code has been subsequently amended in 2001 (JoL no 102/1117) and 2003 (JoL no 49/408 and no 229/2276). The latest amendment of 12 January 2003 enters into force on 14 January 2004. The protection of minor shareholders is covered in Chapter 9 of the Law on the Public Trading of Securities of 21 August 1997 (JoL no 118/754 and no 141/945) which was subsequently amended in 1998, 2000, 2001, and 2002 (JoL no 25/253). Further amendments are currently under consideration by the parliament. Poland has private limited liability companies (spółka z ograniczoną odpowiedzialnością – abbrev. sp. z o.o.) and public limited liability companies (spółka akcyjna – abbrev. – S.A.) exist. The focus of this analysis is mainly on public limited liability companies.	
One share -one vote	**1**	**SUMMARY**	Ordinary shares, both in private and public limited liability companies carry one vote per share. Special types of shares are allowed under specific conditions. In addition, the articles of incorporation of a S.A. may limit the voting rights of a shareholder who holds more than one fifth of all the votes in the company.	
		Article 411	1) A share shall carry one vote at the general meeting. The company articles may limit the voting right of a shareholder, holding more than one-fifth of the total number of votes in the company, subject to provisions of Art 351 no 2, 353 no 3 and Art 354.	**COMMERCIAL CODE**
Proxy by Mail allowed	**0**	**SUMMARY**	Proxy by mail is not specifically allowed.	
		Article 412	1) The shareholders may participate in the general assembly and exercise their voting right in person or by proxy. 2) The proxy shall be granted in writing, or else it shall be invalid.	**COMMERCIAL CODE**

Shares not blocked before meeting	**1**	**SUMMARY**	Bearer shares in a S.A. (or deposit certificates in respect to shares in a publicly listed S.A.) have to be deposited with the company, a notary public, a bank or a brokerage firm at least one week before the date of a given shareholder meeting. They may be retrieved after the meeting. There is no similar requirement with respect to registered shares in a S.A.; however, their holders should be registered in the company's share book at least a week before the Meeting in order to allowed to vote.	
		Article 406	1) Those entitled under registered shares and temporary, as well as the pledgees and usufructuaries who have the right to vote, may participate in the general assembly if they were registered in the share register at least one week prior to the holding of the general assembly. 2) Bearer shares shall carry the right of participating in general meetings provided the share title deeds have been deposited with the company no later than one week before the date of general meeting and are not withdrawn before the conclusion thereof.	**COMMERCIAL CODE**
Cumulative voting/ proportional representation	**1**	**SUMMARY**	Cumulative voting to protect minority shareholders is provided for, as cited below.	
		Article 385	1) The Supervisory Board shall comprise at least three, and in public(ly traded) companies at least five, members appointed and dismissed by the general assembly. 2) The statutes may provide for a different procedure for appointing and dismissing members of the supervisory board. 3) Upon an application of the shareholders, representing at least one- fifth of the share capital, the election of the supervisory board shall be made by the next general assembly by way of a vote in separate groups, even if the statutes provide for a procedure for appointing the supervisory board. … 5) The persons representing at the general assembly the portion of shares which represents the results of the division of the total number of the represented shares by the number of members of the board, may create a separate group for the purpose of electing one member of the board, and shall not participate in the election of the remaining members.	**COMMERCIAL CODE**
Oppressed Minorities (Judicial Venue/ Obligatory Share Repurchase)	**1**	**SUMMARY**	The institution of obligatory share repurchase applies to a S.A. in relation to resolutions of the Shareholders Meeting concerning a substantial change to the scope of the company's business, which is effective only if the shares of the shareholders objecting to the change are purchased. During a general meeting of a public company, shareholders controlling 5% or more of the shares can call for an expert (or special auditor) to examine the management of its business. If this is refused, they can go to court to force the examination.	

		Article 416	1) A majority of two-thirds of the votes shall be required for the adoption of a resolution on a major change of the objects of the company. … 4) The effect of the resolution shall be contingent upon buying out shares of those shareholders who objected to the amendment. The shareholders present at the general meeting who voted against the resolution shall, within two days from the general meeting day, deposit with the company, their shares or certificates attesting that the shares have been placed at the disposal of the company, and those who were absent shall do so within one month from the date of publishing the resolution: failing this, these shareholders shall be deemed to agree to the amendment.	**COMMERCIAL CODE**
		Article 158b	1. On the motion of a shareholder or shareholders holding no less than 5% of the total vote in the general meeting of shareholders, the general meeting of a public company may resolve to have an expert (a special auditor) examine a specific issue related to the company's formation or the management of its business. 2. The special auditor may be a certified auditor or another entity duly qualified to examine an issue stated in a resolution of the general meeting of shareholders.	**Law on the Public Trading of Securities**
		Article 158c	1. Should the general meeting of shareholders dismiss a motion to appoint a special auditor, the requesting parties may apply to a registration court to select an auditor within 14 days of the passage of the resolution. Art. 312 of the Commercial Companies Code will apply accordingly.	
Preemptive right to new issues	**1**	**SUMMARY**	There are three ways the share capital of the company can be increased: private subscription; closed subscription; and open subscription. Shareholders have pre-emptive rights in the case of closed subscription. This right may be excluded only by a resolution of the Shareholders Meeting, subject to special statutory requirements.	

		Article 431	1) An increase of the share capital shall require an amendment to the statutes and shall be effected by way of an issue of new shares or an increase in the nominal value of existing shares. 2) The new shares shall be taken up by way of: 1) the making of an offer by the company and its acceptance by a specified offeree; the acceptance of the offer shall be expressed in writing, or else it shall be invalid (private subscription) 2) the offering of the shares solely to the shareholders who have the pre-emptive right (closed subscription). 3) the offering of the shares in an announcement in accordance with Art 440 paragraph 1, addressed to the persons who do not have the pre-emptive right (open subscription).	**COMMERCIAL CODE**
		Article 433	[Pre-emptive rights] 1) The shareholders shall have the right of priority in taking up the new shares in proportion to the number of shares they hold (the pre-emptive right).	
% of share capital to call an ESM	**10%**	**SUMMARY**	The shareholders in either form of company controlling jointly at least ten percent of the share capital may call an ESM. However, the articles of incorporation may grant this right to shareholders holding a smaller fraction of the share capital.	
		Article 400	1) The shareholder or shareholders representing at least one-tenth of the share capital may request that the extraordinary general assembly be convened, as well as that certain matters be placed on the agenda of the next general assembly. Such request shall be submitted to the management board in writing not later than one month prior to the proposed date of the general assembly. 2) The statutes may grant the rights referred to in 1) to shareholders representing less than one-tenth of the share capital.	**COMMERCIAL CODE**
Mandatory Dividend	**1**	**SUMMARY**	A shareholder has the right to dividend payments in proportion to the nominal value of its shares depending on the profit of the company.	
		Article 347	1) The shareholders shall be entitled to participate in the profits shown in the financial report, audited by an auditor, which have been designated by the general assembly for distribution to shareholders. 2) The profits shall be divided in proportion to the number of shares. If the shares are not paid for in full, the profits shall be divided in proportion to the effected payment for the shares.	**COMMERCIAL CODE**

		Article 348	1) The amounts to be divided amongst the shareholders may not exceed the profits for the previous financial year, increased by the profits transferred from the reserve capitals (funds) created for that purpose in previous years, and reduced by the losses sustained and the amounts allocated to reserve capitals created in accordance with the law or the statutes which may not be used for dividend payments. The profits from the reserve capitals created during a period not longer than the three previous financial years may be designated for dividends.	

Poland – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The Law on Bankruptcy and Reorganisation of 28 February 2003 (JoL no 60/535) came into force on 1 October 2003 replacing the existing Ordinances. The new Act regulates principally all the issues of bankruptcy, including special procedures concerning the insolvency of banks, insurance companies and bond issuers. The Act provides for two separate types of proceedings related to insolvency of business entities. The bulk of the legislative provisions constitute norms for bankruptcy proceedings conducted against an insolvent business entity. This regulation is supplemented with the regulations on reorganisation proceedings initiated by financially troubled business entities and aimed at avoiding insolvency. The reorganisation proceedings are commenced after the business entity files with the court a relevant declaration accompanied by a reorganisation plan. Then, the business entity announces this in the *Monitor Sądowy i Gospodarczy* - *Official Gazette*. The date of placing the announcement is the date on which the reorganisation proceedings are commenced.	
Restrictions on going into reorganisation	**0**	**SUMMARY**	There is no mention in the law about creditors' consent for going into reorganisation	**BANKRUPTCY LAW**
No automatic Stay on Assets	**0**	**SUMMARY**	As of the date reorganisation proceedings are commenced repayment of the business entity's liabilities is suspended.	
		Article 498	Starting with the day of commencing the reorganisation proceedings: 1) they payment of the obligations of the entrepreneur are suspended; 2) the accrual of interest owed by the entrepreneur is suspended; 3) the deduction of receivables is permissible in observation of the provisions of Article 89 (Art. 89/2 Such deduction is permitted if the receivables result from the repayments of a debt for which the recipient was responsible personally, or through certain assets, was assumed before the filing of the bankruptcy petition)…	**BANKRUPTCY LAW**

Secured creditors first (paid)	**0**	**SUMMARY**	The law provides for satisfaction of creditors. The Bankruptcy and Reorganisation Law grants certain creditors procedural preferences, specifically by not requiring them to formally register as creditors. It requires the judge-commissar in charge of administering the insolvency proceedings to divide the creditors into different categories (Art. 278) and stipulates that all creditors in each category should receive identical terms, although minor creditors and those lending money after the declaration of insolvency for necessary expenses may receive preferential treatment. Similarly, employees are entitled to minimal compensation (Art. 279). While the claims of creditors are settled by means of an agreement of creditors, the agreement does not affect rights arising from any mortgage, security, registration pledge, treasury pledge, or maritime mortgage placed on the estate of the insolvent entrepreneur (Art. 292(1)). These are satisfied from the sale of the relevant assets (Art. 345). The Bankruptcy and Reorganisation Law stipulates the order of satisfying creditors.	
		Article 473	The amounts necessary to satisfy or secure the creditors known to the company who have not reported or whose receivables are not mature or are disputed, shall be deposited with the court.	**COMMERCIAL CODE**

		Article 342	1) The payable and liabilities subject to satisfaction from the funds of the estate in bankruptcy are divided up into the following categories: (i) the first category – the costs of the insolvency proceedings, liabilities connected with pension, invalidity, and sickness insurance premia of the employees, liabilities connected with work, liabilities of farmers in connection with agreements to deliver products from the estate made over the past two years, pension payments for sickness, inability to work, disability or death, alimony obligations bearing on the insolvent entrepreneur, liabilities created by the receivers (during the insolvency proceedings), liabilities arising from agreements concluded by the insolvent entrepreneur prior to the declaration of insolvency, the satisfaction of which is demanded by the receivers, liabilities arising from an increase in the estate of the liabilities as a result of actions of the insolvent entrepreneurs conducted with the approval of the court supervisor; (ii) the second category – taxes, other public fees, and liabilities connected with social insurance schemes, not satisfied under the first category, and incurred during the year preceding the date of declaring bankruptcy, as well as the interest and the costs of execution emanating from them; (iii) the third category – other payables, unless subject to satisfaction under the fourth category, together with the interest, during the year preceding the declaration of bankruptcy, of contractual compensation, the costs of the court case and execution; (iv) the fourth category – interest payments not associated with the aforementioned categories in the order in which capital is subject to satisfaction, as well as court and administrative fines and liabilities in connection with donations and records. 2) A liability incurred by means of a transfer or endorsement following the declaration of bankruptcy, is subject to satisfaction in the third category, unless it is [deemed to be] subject to satisfaction in the fourth category. This does not apply to a liability which has arisen as result of the actions of the court receivers or the actions of the insolvent entrepreneurs undertaken with the approval of the court supervisor. 3) Provisions pertaining to the satisfaction of liabilities arising from work are duly referred to the claims of the Fund of Guaranteed Work Benefits (*Fundusz Gwarantowanych Świadczeń Pracowniczych*) for the return from the bankrupt estate of benefits paid out by the Fund to the employees of the bankrupt entrepreneur. …	**BANKRUPTCY LAW**

		Article 344	If the sum available for distribution does not suffice to satisfy all existing liabilities in their entirety, the liabilities of a further category are satisfied only after the satisfaction of all the liabilities of a preceding category in their entirety. If the assets do not suffice for satisfaction in their entirely of the liabilities of a category, the liabilities are satisfied in proportion to their size.	
		Article 345	1) If the particular provisions do not dictate otherwise, liabilities secured by any mortgage, collateral, registration pledge, treasury pledge, or a maritime mortgage and expiring according to the law code or the individual rights and claims bearing on the real property are subject to satisfaction from the sum obtained from the sale of the relevant object with a deduction made for the costs of the sale. …	
Management Replaced	**0**	**SUMMARY**	The management of a company is not replaced when insolvency or reorganisation proceedings are initiated. In the instance of reorganisation, the entrepreneur is responsible for developing the restructuring plan. In connection with the declaration of insolvency, the contractual rights and obligations of the entrepreneur are limited and the court appoints a receiver and a supervisor.	
		Article 494(2)	In connection with the declaration of the commencement of reorganisation proceedings, the entrepreneur compiles a reorganisation plan, the documents listed in Art. 23(1), as well as a notarised declaration on the accuracy of the information provided…	**BANKRUPTCY LAW**
		After 497	1) After commencing the reorganisation proceedings and for their duration, the court appoints a court supervisor for the entrepreneur and can appoint an expert as specified in Art. 31. … 3) The entrepreneur concludes without delay an agreement with the court supervisor on supervisory activities and subsequently pays him remuneration equalling twice the average monthly compensation in the sector , excluding profit bonuses, in the last quarter of the preceding year, as declared by the president of the Main Statistical Office.	
Legal Reserve	**33%**	**SUMMARY**	Until at least one third of the share capital is reached, eight percent of annual net profits should be transferred into reserves.	
		Article 396(1)	A supplementary capital shall be created formed so that losses can be financed; at least 8% of the profits for a given financial year shall be transferred to the supplementary capital until such capital reaches at least one-third of the share capital.	**COMMERCIAL CODE**

Russian Federation – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The Federal Law on Joint-Stock Societies of 26 December 1995 (No 208-F3), as amended in 1996, 1999, 2001, 2002, and 2003, is the main legal document pertaining to shareholders' rights in Russia. The other main documents in this area are the Federal Law on the Securities Market of 22 April 1996 (No 39-F3) and the Federal Law on the Defence of the Rights and Legal Interests of Investors on the Securities Market of 5 March 1999 (No 46-F3). Several types of companies are allowed under Russian law, the most important categories being "limited responsibility societies" and "joint-stock societies". This analysis focuses on joint-stock societies since shares of this type of company can be traded.	
One share -one vote	**1**	**SUMMARY**	The law provides for one share one vote	
		Article 59	Voting at General Meeting of Stockholders Voting at a general meeting of stockholders shall be effectuated according to the principle of 'one voting stock of the society—one vote', except for conducting cumulative voting on the election of the members of the board of directors (supervisory board) of the society and other instances defined in the federal law.	**Federal Law on Joint-Stock Societies**
Proxy by Mail allowed	**0**	**SUMMARY**	The law provides for "external voting" on decisions that do not involve the election of the council of directors (or supervisory council) of the society, audit commission (or internal auditor) of the society or confirmation of the auditor of the society.	
		Article 50	1) A decision of a general meeting of stockholders may be adopted without holding a meeting (the joint presence of stockholders to discuss questions on the agenda and to adopt decisions about put to a vote) by means of conducting external voting (by means of polling). N.B. This provision does not obviate the need for an annual general meeting as defined under Article 47(1) of the law. 2) A decision by the general meeting of stockholders taken by means of external voting (polling) is considered to be in force if the number of stockholders involved in voting control no less that one-half of the voting shares of the society. 3) External voting is conducted by using voting bulletins meeting the requirements stipulated in Article 60 of the law. The date of providing stockholders with their bulletins must be determined no later than 30 days prior to the deadline for receiving the bulletins by the society.	**Federal Law on Joint-Stock Societies**

Shares not blocked before meeting	**1**	**SUMMARY**	The law does not provide for this.	**Federal Law on Joint-Stock Societies**
Cumulative voting/ proportional representation	**1**	**SUMMARY**	Cumulative voting is provided for by the law.	
		Article 66 (4)	Elections of members of the council of directors (supervisory council) of a society with a number of stockholders-possessors of voting stocks of the society of more than one thousand shall be effectuated by cumulative voting. In a society with a number of stockholders-possessors of common stocks of the stock of less than 1,000, cumulative voting in the event of elections of members of the council of directors (or supervisory council) of the society may be provided for by the charter. In the event of cumulative voting, the number of votes associated with each voting share shall correspond to the number of members of the council of directors (or supervisory council) of the society. A stockholder shall have the right to cast the votes so received entirely for one candidate or to distribute them among several candidates.	**Federal Law on Joint-Stock Societies**
Oppressed Minorities (Judicial Venue/ Obligatory Share Repurchase)	**1**	**SUMMARY**	Shareholders have the right to require the company to buy back their shares in the following situations: reorganisation and large-scale transactions.	
		Article 75 (1)	Stockholders possessing voting stocks shall have the right to demand the purchase by the society of all or part of the stocks belonging to them in instances of: the reorganization of the society or the conclusion of a large-scale transaction, the decision concerning the approval of which is adopted by the general meeting of stockholders in accordance with Article 89(2) of the present Federal Law if they voted against the adoption of the decision concerning its reorganization or the approval of the said transaction or did not take part in the voting with regard to these questions the adoption of changes of amendments to the charter of the society or the adoption of a new edition of the charter which limits their rights if they voted against the relevant decision or did not participate in the vote.	**Federal Law on Joint-Stock Societies**
Preemptive right to new issues	**1**	**SUMMARY**	The law provides for preferential rights. However, it is not specified if this right grants purchasing an amount of stocks that maintains the proportional ownership in the society. It also does not specify if all shareholders have this right.	

		Article 28	3) … The decision to increase the share capital of a society through the issue of additional shares must determine the quantity of additional common stocks and of preferred stocks of each type to be placed within the limits of the quantity of declared stocks of this category (or type), the dates and terms of placement, including the price of placement of additional stocks to be offered to stockholders with a preferential right to obtain such shares as defined under the federal law. 4) An increase in the charter capital of a society by means of the issue of additional stocks when there is a block of stocks granting more than 25% of the votes at the general meeting and consolidated in accordance with legal acts of the Russian Federation on privatisation in state or municipal ownership may be effectuated within the period of consolidation only if under such increase the amount of participatory of the state or municipal formation is preserved.	**Federal Law on Joint-Stock Societies**
% of share capital to call an ESM	**10%**	**SUMMARY**	Shareholders representing ten percent of the share capital may call an ESM.	
		Article 55 (1)	An extraordinary general meeting of stockholders shall be held by decision of the council of directors (supervisory council) of the society on the basis of its own initiative, the demand of the audit commission (or internal auditor) of the society, the auditor of the society, and also a stockholder(s) who is the possessor of not less than 10% of the voting stocks of the society on the date of submitting the demand.	**Federal Law on Joint-Stock Societies**
Mandatory Dividend	**0**	**SUMMARY**	The law does not provide for a mandatory dividend. The general meeting decides upon dividend payments.	
		Article 42 (3)	The decision on the payment of intermediate (quarterly, semi-annual) dividends, on the amount of such dividends, and on the manner of their payment to shares of particular categories (types) is taken by the board of directors (supervisory council) of the society. The decision concerning the payment of dividends, including the decision concerning the amount of dividends and the form of its payment with regard to the stocks of each category (or type), shall be adopted by the general meeting of stockholders on the recommendation of the board of directors (supervisory council) of the society. The amount of the annual dividend may not be larger than recommended by the council of directors (or supervisory council) of the society nor less than the payment of intermediate dividends. The general meeting of stockholders has the right to take a decision on the non-payment of dividends to shares of particular categories (types), as well as on the payment of dividends in less than the full amount to preferred shares, the amount of dividends to which is stipulated in the society charter.	**Federal Law on Joint-Stock Societies**

Russian Federation – Creditor Rights

Creditor Rights	Own	Relevant Article	Detail	Law
GENERAL SUMMARY			The Federal Law on Insolvency (or Bankruptcy) as of 26 October 2002 (No 127-F3) regulates creditors' rights in Russia. An important element of the Insolvency Law is the "arbitrage court", which decides upon insolvency, financial recuperation and liquidation.	
Restrictions on going into reorganisation	**1**	**SUMMARY**	In the event of insolvency, the law provides for the right of creditors to participate in the decision to start a liquidation process. Financial recuperation can be agreed upon in order to stop the liquidation process	
		Article 80 (1)	Financial recuperation shall be introduced by an arbitrage court on the basis of the decision of a meeting of creditors [...]	**Federal Law on Insolvency**
No automatic Stay on Assets	**0**	**SUMMARY**	As soon as financial recuperation becomes effective, creditors can no longer access their collateral. Payments to creditors will be considered by the arbitrage court while financial recuperation is under way.	
		Article 81	1) From the date of rendering by the arbitrage court of a ruling concerning the introduction of financial recuperation the following consequences shall ensue: [...] measures previously taken with regard to securing the demands of creditors shall be abolished" 5) Demands of creditors shall be considered by an arbitrage court in the procedure provided for by Article 71 of the present Federal Law.	**Federal Law on Insolvency**
Secured creditors first (paid)	**0**	**SUMMARY**	The law provides for payment of labour and compensation claims before creditors receive payments. The liquidation preference is specified in the register of demands.	

		134 (4)	Demands of creditors shall be satisfied in the following priority: in first priority settlements shall be made with regard to the demands of citizens to whom the debtor bears responsibility for the causing of harm to life or health by means of the capitalization of respective time payments, and also contributory compensation of moral harm; in second priority settlements shall be made with regard to the payment of severance benefits and payment for labour of persons working or who worked under a labour contract and with regard to the payment of remuneration under authors' contracts; in third priority settlements shall be made with other creditors. Demands of creditors with regard to obligations secured by the pledge of property of the debtor shall be satisfied at the expense of the value of the subject of pledge preferentially before other creditors, except for obligations to creditors of the first and second priorities, the rights of demand with regard to which arose before the conclusion of the respective contract of pledge.	**Federal Law on Insolvency**
Management Replaced	**0**	**SUMMARY**	The law does not provide for automatic replacement of management in case of financial recuperation	
		Article 82 (1)	In the course of financial recuperation the management organs of the debtor shall effectuate their powers with the limitations established by the present Chapter.	**Federal Law on Insolvency**
Legal Reserve	**5%**	**SUMMARY**	The legal minimum reserve is five percent of the charter capital.	
		Article 35 (1)	A reserve fund in the amount provided for by the charter of the society, but not less than 5% of its charter capital, shall be created in the society.	**Federal Law on Joint Stock Societies**

South Africa – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			South Africa is a common law country. The version of the Companies Act No. 61 of 1973 used was that given at http://www.acts.co.za/. The Act has been updated three times in 2003. These were by: The Judicial Matters Amendment Act, 2003, (Act No. 16 of 2003), as published in Government Gazette No. 25196 dated 10 July 2003; the Judicial Matters Amendment Act, 2002 (55 of 2002) as gazetted in GG 24277 dated 17 January 2003; and the Corporate Laws Amendment Act, 2002 (39 of 2002) as gazetted in GG 24280 dated 22 January, 2003. There are a number of stock exchanges in Africa, most very small when compared to world standards. The JSE Securities Exchange South Africa (JSE) in South Africa is the largest and most developed bourse on the continent. The latest Johannesberg Stock Exchange (JSE) regulations were checked, with the help of the JSE. No relevant changes were noted. The following three acts, although not referenced here, also protect shareholder rights: the Insider Trading Act, 1998; the Stock Exchanges Control Act (No 1 of 1985). This sets out the parameters within which the Exchange may operate and protects investors, particularly as a result of the disclosure and capital requirements. The Registrar of Stock Exchanges sees to it that the exchange performs as it is required by the act. Before shares can be listed on the Exchange, the applicant company is thoroughly examined and has to comply with stringent disclosure requirement to avoid the danger of shareholders being exploited. The Financial Intelligence Centre Act (Act 39 of 2001). The aim of the act is to combat money laundering by imposing duties on listed organisations. Banks and Mutual Banks are on the list. As such, the Act provides a check on the activities of companies and is therefore a form of protection to shareholders. Similarly, the South Africa electronic share transfer system STRATE offers shareholder protection particularly with regard to the security of share ownership. Now that the ownership of a share is an accounting record as opposed to a document being sent to and fro between broker, nominee and client, there is less risk of fraud or theft in relation to the shares.	

One share-one vote	**0**	**SUMMARY**	There are several places in the law where the text mentions shares having different voting rights. Two are given below.	
		Section 141	No offer of shares for sale to public without statement.— (1) No person shall either orally or in writing (including any newspaper advertisement or any advertisement in a format) make an offer of shares for sale to the public or issue, distribute or publish any such material which in its form and context is calculated to be understood as an offer as aforesaid unless it is accompanied by a written statement containing the particulars required by this section to be included therein. ... (5) The said written statement shall contain particulars with respect to the following matters: ... (c) the share capital of the company and the number of shares which have been issued, the classes into which it is divided and the rights of each class of shareholders in respect of capital, dividends and voting and the number and amount of shares issued for cash and the number and amount thereof issued for a consideration other than cash, and the dates on which and the prices at which or the consideration for which such shares were issued;	
		Section 193	Voting Rights and Voting 193. Voting rights of shareholders.— (1) Subject to the provisions of sections 194 and 195 and to the exceptions stated in section 196, every member of a company having a share capital shall have a right to vote at meetings of that company in respect of each share held by him. (2) Every member of a company limited by guarantee shall, unless the articles otherwise provide, have the right to vote at meetings of that company and shall have one vote.	**Companies Act No. 61 of 1973**
Proxy by mail	**1**	**SUMMARY**	Section 189 states that the proxy form must allow the shareholder to indicate his voting wishes. Section 51 of Schedule 1 states that proxy forms must be lodged with the company forty-eight hours before the meeting. This lodging can be by mail. New legislation was passed recently, the Electronic Communications and Transactions Act ("the ECT Act") which mentions electronic voting by proxy, but it is unclear whether the Companies Act has to be amended to allow this.	

		Section 189	Representation of members at meetings by proxies.— (1) Any member of a company entitled to attend and vote at a meeting of the company, or where the articles of a company limited by guarantee so provide, any member of such company, shall be entitled to appoint another person (whether a member or not) as his proxy to attend, speak, and vote in his stead at any meeting of the company: Provided that, unless the articles otherwise provide, a proxy shall not be entitled to vote except on a poll and a member of a private company shall not be entitled to vote except on a poll and a member of a private company shall not be entitled to appoint more than one proxy. ... (5) If for the purposes of any meeting of a company invitations to appoint as proxy a person, or one of a number of persons, specified in the invitations or the instruments appointing a proxy, are issued at the company's expense, any such invitation or instrument appointing a proxy shall— (a) contain adequate blank space immediately preceding the name or names of the person or persons specified therein to enable a member to write in the name and, if so desired, an alternative name of a proxy of his own choice; (b) provide for the member to indicate whether his proxy is to vote in favour of or against any resolution or resolutions to be put at the meeting or is to abstain from voting.	**Companies Act No. 61 of 1973**
		Schedule 1 Section 51	The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or notarially certified copy of such power or authority shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting ...	
Shares not blocked before meeting	**1**	**SUMMARY**	There is no reference to this in the laws.	
Cumulative voting/proportional representation	**0**	**SUMMARY**	The law does not allow for cumulative voting or proportional representation. Each candidate for director must be voted on individually and a simple majority vote will appoint a candidate.	
		Section 210	Appointment of directors to be voted on individually.— (1) At a general meeting of a company a motion for the appointment of two or more persons as directors of the company by a single resolution shall not be moved, unless a resolution that it shall be so moved has first been agreed to by the meeting without any vote being given against it.	**Companies Act No. 61 of 1973**

Oppressed minorities mechanisms – Judicial venue/obligatory share repurchase	**1**	**SUMMARY**	Section 252 allows the court to force a company to buy back shares of members if the courts believe the company is acting prejudicial to their interests.	
		Section 252	Member's remedy in case of oppressive or unfairly prejudicial conduct.— (1) Any member of a company who complains that any particular act or omission of a company is unfairly prejudicial, unjust or inequitable, or that the affairs of the company are being conducted in a manner unfairly prejudicial, unjust or inequitable to him or to some part of the members of the company, may, subject to the provisions of subsection (2), make an application to the Court for an order under this section. (2) Where the act complained of relates to— (a) any alteration of the memorandum of the company under section 55 or 56; (b) any reduction of the capital of the company under section 83; (c) any variation of rights in respect of shares of a company under section 102; or (d) a conversion of a private company into a public company or of a public company into a private company under section 22, an application to the Court under subsection (1) shall be made within six weeks after the date of the passing of the relevant special resolution required in connection with the particular act concerned. (3) If on any such application it appears to the Court that the particular act or omission is unfairly prejudicial, unjust or inequitable, or that the company's affairs are being conducted as aforesaid and if the Court considers it just and equitable, the Court may, with a view to bringing to an end the matters complained of, make such order as it thinks fit, whether for regulating the future conduct of the company's affairs or for the purchase of the shares of any members of the company by other members thereof or by the company and, in the case of a purchase by the company, for the reduction accordingly of the company's capital, or otherwise.	**Companies Act No. 61 of 1973**
Preemptive rights	**1**	**SUMMARY**	It is a general principle of company law that existing shareholders have preemptive rights. For companies listed on the JSE, this right is explicitly set out in section 3.32 of the Listings Requirements. This right can be waived by shareholders in terms of section 3.34 read together with sections 5.68 and 5.69 of the Listings Requirements. In order to waive preemptive rights, a resolution must be passed by seventy five percent of shareholders at a general meeting.	

		Section 3.30	Pre-emptive rights 3.30 Subject to paragraphs 3.32 and 3.33, a listed company proposing to issue equity securities for cash must first offer those securities by rights offer to existing equity shareholders in proportion to their existing holdings. Only to the extent that the securities are not taken up by such persons under the offer may they then be issued for cash to others or otherwise than in the proportion mentioned above. 3.31 To the extent permitted by the Registrar of Companies and subject to the prior approval of the JSE, an issuer need not comply with paragraph 3.30 with respect to securities that the directors of the issuer consider necessary or expedient to be excluded from the offer because of legal impedements or because of compliance with the requirements of ant regulatory body of any territory recognised as having import on the law.	**Listing Requirements of the JSE**
		Section 3.32	Waiver of pre-emptive rights 3.32 To the extent that holders of securities of an issuer provide their authorisation by way of ordinary resolution (determined in accordance with paragraph 5.51(g) or 5.52(e)) issues by a issuer of equity securities for cash made otherwise than to existing holders of securities in proportion to their existing holdings will be permitted in respect of a specific issue of equity securities for cash, for a fixed period of time thereafter in accordance with such general authority. 3.33 However, in exceptional circumstances (such as rescue operations), the JSE, in its sole discretion, may grant an issuer dispensation from the normal requirements relating to issues of shares for cash. In these circumstances, the JSE, in its sole discretion, may require the publication of such information relating to the dispensation as it deems appropriate.	
		Section 5.51	Requirements for specific issues of shares for cash 5.51 An applicant may only undertake a specific issue of shares for cash subject to satisfactory compliance with the following requirements: ... (g) approval of the specific issue for cash resolution by achieving a 75% majority of the votes cast in favour of such resolution by all equity securities holders present or represented by proxy at the general meeting convened to approve such resolution, excluding any parties and their associates participating in the specific issue for cash.	

		Section 5.52	Requirements for general issues of securities for cash 5.52 An applicant may only undertake a general issue for cash subject to satisfactory compliance with the following requirements: ... (e) approval of the general issue for cash resolution by achieving a 75% majority of the votes cast in favour of such resolution by all equity securities holders present or represented by proxy at the general meeting convened to approve such resolution. The resolution must be worded in such a way as to include the issue of any options/convertible securities that are convertible into an existing class of equity securities, where applicable.	
Percentage share capital to call an ESM <10%	**5%**	**SUMMARY**	Shareholders holding five percent of the share capital can request a meeting.	
		Section 181	Calling of general meetings on requisition by members.— (1) The directors of a company shall, notwithstanding anything in its articles, on the requisition of— (a) one hundred members of the company or of members holding at the date of the lodging of the requisition not less than one-twentieth of such of the capital of the company as at the date of the lodgment carries the right of voting at general meeting of the company; or (b) in the case of a company not having a share capital, one hundred members of the company or of members representing not less than one-twentieth of the total voting rights of all the members having at the said date a right to vote at general meetings of the company, within fourteen days of the lodging of the requisition issue a notice to members convening a general meeting of the company for a date not less than twenty-one and not more than thirty-five days from the date of the notice.	**Companies Act No. 61 of 1973**
Mandatory dividend	**0**	**SUMMARY**	There is no restriction as to the size of a dividend in the laws, and therefore there is no mandatory dividend.	
		Schedule 1 Section 84	The company in annual general meeting may declare dividends but no dividend shall exceed the amount recommended by the directors.	**Companies Act No. 61 of 1973**
		Schedule 1 Section 86	No dividend shall be paid otherwise than out of profits or bear interest against the company.	

South Africa – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The version of the Companies Act No. 61 of 1973 used was that given at http://www.acts.co.za/. The Act has been updated three times in 2003. These were by: The Judicial Matters Amendment Act, 2003, (Act No. 16 of 2003), as published in Government Gazette No. 25196 dated 10 July 2003; the Judicial Matters Amendment Act, 2002 (55 of 2002) as gazetted in GG 24277 dated 17 January 2003; and the Corporate Laws Amendment Act, 2002 (39 of 2002) as gazetted in GG 24280 dated 22 January, 2003. The Insolvency Act No. 24 of 1936 has been amended twice in 2003 by: The Judicial Matters Amendment Act, 2003 (16 of 2003) as gazetted in GG 25196 dated 10 July 2003; and the Judicial Matters Second Amendment Bill (B 41-2003). None of these changes affect the sections referenced below. The South African Companies Act No. 61 of 1973 has two systems concerning failing companies: winding up, Chapter XIV; and judicial management, Chapter XV.	
Restrictions on going into reorganisation	**1**	**SUMMARY**	All attempts to place the company under judicial management have to go via the courts. Art. 427, read in conjunction with 346, states who can apply to put a company into judicial management and why, and act 432 states that the courts, on considering the opinion the creditors of the company, may make the judicial order final, at their discretion.	

		Section 427	Circumstances in which company may be placed under judicial management.— (1) When any company by reason of mismanagement or for any other cause— (a) is unable to pay its debts or is probably unable to meet its obligations; and (b) has not become or is prevented from becoming a successful concern, and there is a reasonable probability that, if it is placed under judicial management, it will be enabled to pay its debts or to meet its obligations and become a successful concern, the Court may, if it appears just and equitable, grant a judicial management order in respect of that company. (2) An application to Court for a judicial management order in respect of any company may be made by any of the persons who are entitled under section 346 to make an application to Court for the winding-up of a company, and the provisions of section 346 (4) (a) as to the application for winding-up shall mutatis mutandis apply to an application for a judicial management order. (3) When an application for the winding-up of a company is made to Court under this Act and it appears to the Court that if the company is placed under judicial management the grounds for its winding-up may be removed and that it will become a successful concern and that the granting of a judicial management order would be just and equitable, the Court may grant such an order in respect of that company.	**Companies Act No. 61 of 1973**
		Section 428	(1) The Court may on an application under section 427(2) or (3) grant a provisional judicial management order, stating the return day, or dismiss the application or make any other order that it deems just. […] (3) The Court which has granted a provisional judicial management order, may at any time and in any manner, on the application of the applicant, a creditor or member, the provisional judicial manager or the Master, vary the terms of such order or discharge it.	

		Section 346	Application for winding-up of company.— (1) An application to the Court for the winding-up of a company may, subject to the provisions of this section, be made— (a) by the company; (b) by one or more of its creditors (including contingent or prospective creditors); (c) by one or more of its members, or any person referred to in section 103 (3), irrespective of whether his name has been entered in the register of members or not; (d) jointly by any or all of the parties mentioned in paragraphs (a), (b) and (c); (e) in the case of any company being wound up voluntarily, by the Master or any creditor or member of that company; or (f) in the case of the discharge of a provisional judicial management order under section 428 (3) or 432 (2), by the provisional judicial manager of the company. (2) A member of a company shall not be entitled to present an application for the winding-up of that company unless he has been registered as a member in the register of members for a period of at least six months immediately prior to the date of the application or the shares he holds have devolved upon him through the death of a former holder and unless the application is on the grounds referred to in section 344 (b), (c), (d), (e) or (h).	
		Section 432	Return day of provisional order of judicial management and powers of the Court. (1) Any return day fixed under section 428 (1) shall not be later than sixty days after the date of the provisional judicial management order but may be extended by the Court on good cause shown. (2) On such return day the Court may after consideration of— (a) the opinion and wishes of creditors and members of the company; (b) the report of the provisional judicial manager under section 430; (c) the number of creditors who did not prove claims at the first meeting of creditors and the amounts and nature of their claims; (d) the report of the Master; and (e) the report of the Registrar, grant a final management order if it appears to the Court that the company will, if placed under judicial management, be enabled to become a successful concern and that it is just and equitable that it be placed under judicial management, or may discharge the provisional order or make any other order it may deem just.	
No automatic stay on assets	**0**	**SUMMARY**	Art. 429(a) (judicial management) states that upon granting a provisional judicial order all property shall be in the custody of the master until a provisional judicial manager has been appointed (an automatic stay on the assets). It is the job of the provisional judicial manager to possess all the assets of the company, which would continue until the return day of the provisional order (Section 432 above).	

		Section 429	Custody of property and appointment of provisional judicial manager on the granting of judicial management order.— Upon the granting of a provisional judicial management order— (a) all the property of the company concerned shall be deemed to be in the custody of the Master until a provisional judicial manager has been appointed and has assumed office;	**Companies Act No. 61 of 1973**
		Section 430	Duties of provisional judicial manager upon appointment. A provisional judicial manager shall— (a) assume the management of the company and recover and reduce into possession all the assets of the company;	
Secured creditors first (paid)	**1**	**SUMMARY**	In a winding up process the secured creditors get paid first (see Art. 366 and the Insolvency Act 24 of 1936, section 94 of which discusses the order in which claims are to be paid, as set out in sections 95-103). In the case of judicial management, section 435 allows for secured creditors to get paid first (after the costs of judicial management).	
		Section 366	Claims and proof of claims. (1) In the winding-up of a company by the Court and by a creditors' voluntary winding-up— (a) the claims against the company shall be proved at a meeting of creditors mutatis mutandis in accordance with the provisions relating to the proof of claims against an insolvent estate under the law relating to insolvency; (b) a secured creditor shall be under the same obligation to set a value upon his security as if he were proving his claim against an insolvent estate under the law relating to insolvency, and the value of his vote shall be determined in the same manner as is prescribed under that law; (c) a secured creditor and the liquidator shall, where the company is unable to pay its debts, have the same right respectively to take over the security as a secured creditor and a trustee would have under the law relating to insolvency.	**Companies Act No. 61 of 1973**

		Section 94	Form of plan of distribution A plan of distribution shall show in parallel columns under separate headings (a) every claim of the part of every claim against the estate in question which is secured or otherwise preferent; (b) every claim or the part of every claim against the estate which is unsecured or otherwise non-preferent; (c) the amount awarded under that plan and under any previous plan of distribution to every creditor of the estate; (d) the deficiency in respect of each claim; and shall make provision for the division of the proceeds of the property in the insolvent estate in the order of preference and in the manner set forth in sections ninety-five to one hundred and four inclusive.	**Insolvency Act 1936**
		Section 95	Application of proceeds of securities (1) the proceeds of any property which was subject to a special mortgage, landlord's legal hypothec, pledge or right of retention, after deduction therefrom of the costs mentioned in subsection (1) of section 89 [cost of maintaining property], shall be applied in satisfying the claims secured by the said property, in their order of preference, ...	
			The sections then continue, with section 96 funeral expenses, 97 cost of sequestration, 98 cost of execution, 98a salaries, 99 preference in regard to certain statutory obligations, 101 taxes, 102 preference under a general bond and 103 non-preferent claims.	

		Section 435	Pre-judicial management creditors may consent to preference.— (1) (a) The creditors of a company whose claims arose before the granting of a judicial management order in respect of such company may at a meeting convened by the judicial manager or provisional judicial manager for the purpose of this subsection or by the Master in terms of section 429 (b) (ii), resolve that all liabilities incurred or to be incurred by the judicial manager or provisional judicial manager in the conduct of the company's business shall be paid in preference to all other liabilities not already discharged exclusive of the costs of the judicial management, and thereupon all claims based upon such first-mentioned liabilities shall have preference in the order in which they were incurred over all unsecured claims against the company except claims arising out of the costs of the judicial management.	**Companies Act No. 61 of 1973**
Management replaced (in reorganisation)	**1**	**SUMMARY**	In a judicial management procedure the management of the company is replaced by a provisional judicial manager (428, 429 and 430) and then a final judicial manager (433).	
		Section 428	Provisional judicial management order. (1) The Court may on an application under section 427 (2) or (3) grant a provisional judicial management order, stating the return day, or dismiss the application or make any other order that it deems just. (2) A provisional judicial management order shall contain— (a) directions that the company named therein shall be under the management, subject to the supervision of the Court, of a provisional judicial manager appointed as hereinafter provided, and that any other person vested with the management of the company's affairs shall from the date of the making of the order be divested thereof; and ..	**Companies Act No. 61 of 1973**
		Section 429	Custody of property and appointment of provisional judicial manager on the granting of judicial management order. (1) Upon the granting of a provisional judicial management order— (a) all the property of the company concerned shall be deemed to be in the custody of the Master until a provisional judicial manager has been appointed and has assumed office; (b) the Master shall without delay— (i) appoint, in accordance with policy determined by the Minister, a provisional judicial manager (who shall not be the auditor of the company or any person disqualified under this Act from being appointed as liquidator in a winding-up) who shall give such security for the proper performance of his duties in his capacity as such, as the Master may direct, and who shall hold office until discharged by the Court as provided in section 432 (2) (a); (ii) convene separate meetings of the creditors, the members and debenture-holders (if any) of the company for the purposes referred to in section 431.	

		Section 430	Duties of provisional judicial manager upon appointment. (1) A provisional judicial manager shall— (a) assume the management of the company and recover and reduce into possession all the assets of the company;	
		Section 433	Duties of final judicial manager. (1) A judicial manager shall, subject to the provisions of the memorandum and articles of the company concerned in so far as they are not inconsistent with any direction contained in the relevant judicial management order— (a) take over from the provisional judicial manager and assume the management of the company;	
Legal reserve required as a % of capital	**0**	**SUMMARY**	Section 87 of Schedule 1 states that company directors can put profits into a reserve, but does not stipulate they have to (so there is no legal reserve). However, section 344 says that when seventy five percent of the issued share capital has been lost the company may be wound up by the Court.	
		Schedule 1 Section 87	The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think fit as a reserve or reserves, which shall, at the discretion of the directors, be applicable for any purpose to which the profits of the company may be properly applied and, pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit. The directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.	**Companies Act No. 61 of 1973**
		Section 344	Circumstances in which company may be wound up by Court. (1) A company may be wound up by the Court if— (e) seventy-five per cent of the issued share capital of the company has been lost or has become useless for the business of the company;	

South Korea – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The Korean Commercial Code (KCC) was extensively changed in 1998, 1999 and July 24, 2001, each amendment representing the government's attempt to correct some structural problems in corporate Korea. For example, the major focus of the 1998 amendments was to address the failures that were exposed during the financial crisis. The 1998 amendments included provisions to simplify the mergers and acquisitions process, increase the accountability of de facto directors, and strengthen minority shareholder rights. Another relevant major law is the Securities Exchange Act (SEA). The SEA was revised in 2001 to clarify the fiduciary responsibility of directors and lower the threshold for exercising rights to file class action suits, make proposals at a general shareholders meeting, inspect companies' financial accounts, and request the dismissal of directors or internal auditors.	**1998 KCC, 1999 KCC, 2001 KCC, 2001 SEA**
One share-one vote	**1**	**SUMMARY**	The KCC requires a company to give its shareholders one vote for each share (Article 369). However, different classes of shares are allowed, as specified by Article 370.	
		Article 369	Article 369 (Votes) (1) A shareholder shall have one vote for each share; (2) The company shall not be entitled to vote in respect of its own shares; (3) In the case where a company, its parent company and its subsidiary company together or its subsidiary company alone holds more than 1/10 of the total outstanding shares of another company, the shares of the company or of the parent company held by such another company shall not be entitled to vote.	**2001 KCC, amended December 29, 2001**
		Article 370	Article 370 (Non-voting Shares) (1) In the case where a company issues different classes of shares, the articles of incorporation may provide that a shareholder of a certain class of shares having preferential rights as to the dividend of profits shall not be entitled to vote: provided, that such shareholder shall be entitled to vote from the general meeting subsequent to the general meeting where a resolution disallowing the preferred dividend as provided in the articles of incorporation is adopted until the time of closing of the general meeting where a resolution allowing such dividend is adopted. (2) The total number of non-voting shares mentioned in paragraph (1) shall not exceed 1/4 of the total outstanding shares.	
Proxy by mail	**1**	**SUMMARY**	The KCC provides for proxy voting by mail (Article 368-3).	

		Article 368-3	Article 368-3 (Exercise of Voting Right in Writing) (1) Shareholders may exercise their voting rights in writing in lieu of attending the general meeting. (2) Notice for the convocation of the general meeting shall be accompanied by reference materials and documents necessary for shareholders to exercise their voting rights under paragraph (1).	**2001 KCC, amended December 29, 2001**
Shares not blocked before meeting	**1**	**SUMMARY**	The KCC requires that a shareholder holding bearer share certificates deposit his share certificates before he exercises his rights (Article 358). However, there is no such requirement for registered shares.	
		Article 357	Article 357 (Issuance of Bearer Share Certificates) (1) A bearer share certificate may be issued only if it is so provided in the articles of incorporation. (2) A shareholder may at any time demand of the company that a bearer share certificate be converted into a registered share certificate.	**2001 KCC, amended December 29, 2001**
		Article 358	Article 358 (Exercise of Rights by Shareholders Holding Bearer Share Certificates) The owner of a bearer share certificate may not exercise his rights as a shareholder unless he deposits his share certificate with the company.	
		Article 368	Article 368 (Method of Adopting Resolutions and Exercise of Voting Rights) …. (2) Persons holding bearer share certificates shall deposit them with the company one week prior to the date set for the meeting.	
Cumulative voting/Proportional Representation	**1**	**SUMMARY**	Shareholders with at least three percent of the total shares can request cumulative voting when more than two directors are elected. Companies must accept such a request unless they have added a provision in their articles of incorporation to exclude it. However, according to Kim ["Korean Commercial Code Amendments", University of Pennsylvania Journal of International Economic Law, VOL. 21:2 (2000)]: "Amending the articles of incorporation requires a special majority vote at a shareholders meeting, which may be a considerable burden. One problem with this provision is that, unlike the other provisions of the 1998 KCC, it did not become effective until June 28, 1999. Any election of directors preceding that date did not have to be executed with cumulative voting, and companies were granted a chance to adopt exclusionary provisions to prohibit it. According to the Korea Stock Exchange, of the 516 listed companies with fiscal years ending in December 1998, 386 companies, or 74.8%, managed to enact provisions excluding cumulative voting." Companies that have not adopted exclusionary provisions are required to adopt cumulative voting.	

		Article 382-2	Article 382-2 (Concentrated Vote) (1) In the case where a general meeting of a company is convened to elect two directors or more, shareholders who hold no less than 3/100 of the total outstanding shares other than nonvoting shares may request that the company elect directors by means of a concentrated vote, except as otherwise provided by the articles of incorporation.	**2001 KCC, amended December 29, 2001**
Oppressed minorities mechanism - Judicial venue/Obligatory share repurchase	**1**	**SUMMARY**	The KCC provides detailed mechanisms (appraisal rights) for shareholders to step out of the company by requiring the company to purchase their shares when they object to certain fundamental changes that affect their rights as shareholders. For example, in the following situations: (1) if a shareholder disagrees with a merger proposal or a significant sale or purchase of business operations; (2) if a shareholder disagrees with a spin-off merger; or (3) if a shareholder's transfer of shares is denied. In the first two cases, where a shareholder disagrees with a merger or a significant sale or purchase of business operations, or with a spin-off merger, that shareholder can request appraisal rights. See also 2001 KCC arts. 335-6 (Right of Shareholders to Request Purchase of Share), art. 374-2 (Rights of Dissenting Shareholders to request the purchase of shares), art. 522-3 (mergers), and art. 530-11 (spin-off mergers).	
		Article 374-2	Article 374-2 (Rights of Dissenting Shareholders to request the purchase of shares) (1) If a shareholder who dissents from the subject-matters of resolution set forth in Article 374 (Resolution for Transfer, Takeover or Lease of Business) has notified the company in writing of his intention of such dissent before the general shareholders' meeting, he may request the company in writing to purchase the shares owned by him, which request shall be made within twenty days after the resolution is adopted at the general meeting and shall specify the class and number of such shares. (2) The company shall purchase the shares within two months after receiving the request under paragraph (1). (3) The purchase price of the shares pursuant to paragraph (2) shall be determined through a negotiation between the shareholder and the company. (4) Where the negotiation under paragraph (3) has not been attained within 30 days since the receipt of a request under paragraph (1), the company or the shareholder requesting the purchase of shares may request the court to determine the purchase price. (5) Where a court makes a decision on the purchase price of shares under paragraph (4), the said court shall compute it by a fair value in view of the assets status of the company and other situations.	**2001 KCC, amended December 29, 2001**
Preemptive rights	**1**	**SUMMARY**	The KCC provides shareholders with preemptive rights.	

		Article 418	Article 418 (Contents of Preemptive Rights, Designation and Public Notice of Record Date for Allotment): (1) Each shareholder shall be entitled to the allotment of new shares in proportion to the number of shares that he holds. (2) If the company has issued bearer share certificates, a public notice on matters set forth in paragraph (1) shall be given. (3) The notification under paragraph (1) and the public notice under paragraph (2) shall be given at least two weeks before the date set forth in paragraph (1). (4) In the case where a holder of preemptive rights fails to apply for the subscription for new shares on or before the specified date notwithstanding the notification under paragraph (1) or the public notice under paragraph (2), his rights shall be forfeited.	**2001 KCC, amended December 29, 2001**
Percentage share capital to call an ESM <10%	**3%**	**SUMMARY**	The KCC provides that shareholders who hold no less than three percent of the total outstanding shares may demand the convocation of an extraordinary general meeting.	
		Article 366	Article 366 (Demand for Convocation by Minority Shareholders) (1) Shareholders who hold no less than 3% of the total outstanding shares may demand the convocation of an extraordinary general meeting, by submitting to the board of directors a written statement of the proposed subject matters of the meeting together with the reasons for the proposed convocation.	**2001 KCC, amended December 29, 2001**
Mandatory dividend	**0**	**SUMMARY**	There is no specific requirement for mandatory dividend in Korean law.	

South Korea – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Insolvency laws in the Republic of Korea consist of (i) the Bankruptcy Act, (ii) the Composition Act and (iii) the Corporate Reorganisation Act. The Composition Act has its origins in Austrian Law and the Bankruptcy Act in the German system. Both were introduced to the Republic of Korea via Japan. The Corporate Reorganisation Act is largely modelled along the lines of US federal law, such as the "Chapter 11" protections. The Korean government amended the bankruptcy laws in 1998, simplifying legal proceedings for corporate rehabilitation and bankruptcy filing, streamlining provisions for nonviable firms to exit markets, and improving credit bank representation during resolution. The authorities also attempted to expedite court insolvency proceedings granting district courts the authority to process cases. The Korean government has been trying to consolidate the three bankruptcy-related laws into one to simplify the procedures for revival or exit. However, as of January 9, 2004, the draft bill, which will replace three insolvency-related acts, was still under deliberation at the National Assembly, the Korean legislature.	
Restrictions on going into reorganisation	**1**	**SUMMARY**	There are two important restrictions. Firstly, the Korean Corporate Reorganisation Act provides that the corporate reorganisation proceedings should meet several prerequisites stated in the Act (Art. 38). Secondly, the courts only approve the reorganisation plans that have two thirds consensus reached by non-secured creditors and three quarters consensus by secured creditors (Art. 205).	

		Article 38	Article 38 (Conditions for Commencement of Proceedings) The court shall turn down any application for the commencement of reorganization proceedings in the case falling under each of the following subparagraphs. In this case, the court shall seek opinions from the management committee: ... 2.Where a creditor or stockholder has acquired the claim or stocks to make an application for commencement of the reorganization proceedings; 3.Where the application is made primarily with the intention of evading bankruptcy or financial obligations; 4.Where bankruptcy proceedings and composition proceedings are ending before the court, and the general interest of the creditors are served by following those proceedings; 5.Where the value of a company at the time of liquidation is apparently greater than that at the time of continuing the business;	**Korean Corporate Reorganization Act**
		Article 205	Article 205 (Requirements for Adoption) The adoption of any draft reorganization at a meeting of interested persons shall be made according to what falls under any of the following subparagraphs: 1.Reorganization creditor group: A consent of persons holding voting rights corresponding to not less than 2/3 of the gross amount of the voting rights of reorganization creditors who can exercise their voting rights is required; 2.Reorganization security holder group: and (a) With respect to the draft reorganization program under the provisions of Article 189, a consent of persons holding voting rights corresponding to not less than 3/4 of the gross amount of the voting rights of reorganization security holders who can exercise their voting rights is required; and (b) With respect to the draft reorganization program under the provisions of Article 191, a consent of all reorganization security holders who can exercise their voting rights is required; 3.Shareholder group: a consent of persons holding voting rights corresponding to a majority of the total number of the voting rights of stockholders who can exercise their voting rights is required.	
No automatic stay on assets	**1**	**SUMMARY**	The Act does not impose an automatic stay on the firm's assets. However, during the corporate reorganisation proceedings, the judge can grant an injunction to preserve a company's assets. The judge can exercise this power to protect a firm's assets from non-secured creditors as well as secured creditors.	

		Article 37	Article 37 (Order, etc. of Suspension of Other Proceedings) (1) Where an application has been made for the commencement of reorganization proceedings, the court may, if it deems it necessary, upon the application of an interested person or ex officio, order the suspension of any bankruptcy proceedings or composition proceedings, any compulsory execution, provisional seizure or injunction already taken in respect of company property as a result of reorganization claims or reorganization security, any auction proceedings for the exercise of security interest, any legal proceedings in respect of the property relationships of the company, or any proceedings of a case concerning the property relationships of the company pending before an administrative agency, until a decision on the application for the commencement of reorganization proceedings is reached: provided, that this shall not apply in respect of compulsory execution, provisional seizure or injunctions, or auction proceedings where it might inflict an unreasonable loss on the creditors or person requesting the auction. (2)	**Korean Corporate Reorganization Act**
		Article 39	Article 39 (Preservative Measures and Receivers) (1) The court may, upon the application of an interested person or ex officio, order the provisional seizure or injunction, or any other necessary preservative measure in respect of the affairs and property of the company, before making a decision on the commencement of reorganization proceedings. In this case, it shall seek opinions from the management committee. (2)	
Secured creditors first (paid) (paid)	**1**	**SUMMARY**	Generally speaking, secured creditors have priority over non-secured creditors and shareholders, but there is no absolute priority rule. The Korean Insolvency Practice adopts "relative priority rule" [c.f., Jae Hyung Kim (2000): The Criteria for Cancellation of Stocks Based on Business Practices Responsibility in the Corporate Reorganisation Plan, *Research on Commercial Law Decisions*, Vol. 5, Pakyoungsa, pp. 279-298.]. Some taxes and workers' salaries are protected in the proceedings. However, secured creditors with lien on mortgages and pledges have priority, according to Art. 468 of the KCC.	
		Article 468	Article 468 (Right to Preferential Payment of Employee) A person who has a claim for the return of money as a guarantee for fidelity of an employee or any other claim arising out of the relations of employment between a company and its employees shall be entitled to preferential payment from the company's whole property: provided, that such right shall not have priority over the pledge or mortgage.	**2001 KCC, amended December 29, 2001**

Management replaced (in reorganisation)	**1**	**SUMMARY**	According to the Korean Corporate Reorganisation Act, Articles 53 and 94, an official, known as the receiver, is appointed by the court to manage the assets in the corporate reorganisation proceedings. The debtor keeps possession of property pending resolution of the reorganisation process, but with the decision of the reorganisation proceeding, the authority to manage property is transferred to the receiver.	
		Article 53	Article 53 (Management of Affairs and Property after Commencement) (1) Where a decision is reached to commence reorganization proceedings, the right to operate the company business and to manage and dispose of the property shall be within the exclusive jurisdiction of the receiver.	**Korean Corporate Reorganization Act**
		Article 94	Article 94 (Receiver Appointment) The court shall appoint a person equal to the task as a receiver by seeking opinions from the management committee and a creditors' conference.	
Legal reserve required as a % of capital	**50%**	**SUMMARY**	The KCC Article 458 provides that the legal reserve of a company be fifty percent of its capital.	
		Article 458	Article 458 (Earned Surplus Reserve): A company shall accumulate, as the earned surplus reserve, the amount of at least 1/10 of the cash dividend at each period for the settlement of accounts until the reserve reaches half of the company's capital.	**2001 KCC, amended December 29, 2001**

Sri Lanka – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Public companies are incorporated under the Companies Act No. 17 of 1982, as amended by Amendment Act 33 of 1991. This legislation came into force on 20 May 1982. A Bill to repeal and replace this Act is in its final stage of drafting and is awaiting observations from all stakeholders in the field of Commercial Law. Public companies listed on a stock exchange are termed listed public companies. The Securities and Exchange Commission of Sri Lanka Act No. 36 of 1987, which came into force on 27 August 1987 and was thereafter amended by Act No. 26 of 1991, regulates licensing of Stock Exchanges by the Securities and Exchange Commission, which it established. The Securities and Exchange Commission of Sri Lanka Rules of 1990 made under that Act specify the listing requirements. The version of the Listing Rules used was that available on the Colombo Stock Exchange website (http://www.cse.lk/home/main.jsp) as of 7/1/2003.	
One share-one vote	**0**	**SUMMARY**	Sri Lankan Listing Rules allow for different types of shares, each with different voting rights, or no voting rights. Article 130 of the Companies Act allows for companies to vary voting rights, and Article 135 says there are different classes of members for a company.	
		1.1-3 Non Voting Shares	Non-voting shares will be approved for a quotation only if shares which enjoy voting rights are already quoted on the Exchange.	**Listing Rules of the Colombo Stock Exchange**
		Article 130	The following provisions shall have effect in so far as the articles of the company do not make other provision in that behalf - … (f) in the case of a company having a share capital where voting is by show of hands, each member shall have one vote and on a poll every member shall have one vote in respect of each share or each one hundred rupees of stock, as the case may be, held by him and in any other case every member shall have one vote.	**Companies Act of 1982**

		Article 135	On a poll taken at a meeting of a company or a meeting of any class of members of a company, a member entitled to more than one vote need not, if he votes, use or cast all his votes in the same way.	
Proxy by mail	**0**	**SUMMARY**	A proxy is required to be present at voting time.	
		Article 133	(1) Any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person (whether a member or not) as his proxy to attend and vote instead of him…	**Companies Act of 1982**
Shares not blocked before meeting	**1**	**SUMMARY**	There is no such requirement in the Companies Act. The listing rules say that shares should be freely tradable.	
		Section 5	1. Transfer and Registration of Shares a) Notwithstanding any provision in these Articles suggesting the contrary, shares quoted on the Colombo Stock Exchange shall be freely transferable and registration of the transfer of such quoted shares shall not be subject to any restriction, save and except to the extent required for compliance with statutory requirements.	**Listing Rules of the Colombo Stock Exchange**
Cumulative voting/proportional representation	**0**	**SUMMARY**	There is no reference in the Companies Act or listing rules for cumulative voting or proportional representation.	
Oppressed minorities mechanisms - Judicial venue/obligatory share repurchase	**1**	**SUMMARY**	When affairs of a company are conducted in a manner oppressive to any member, article 210 (see also 211 to 214) allows for an application to be made to the District Court of the District where the registered office of the company is situated for remedying the matters complained of. Similarly, Article 216 allows for the obligatory repurchase of shares.	
		Article 210	(1) Any member or members of a company … having complaint that the affairs of a company are being conducted in a manner oppressive to any member … may make an application to the District Court .. For an order under the provisions of this section...	**Companies Act of 1982**
		Article 216	Without prejudice to the generality of the powers of the court conferred by section 210 or section 211, any order made under the provisions of either of such sections may provide for - (b) the purchase of the shares or interests of any members of the company by other members thereof or by the company.	
Preemptive rights	**0**	**SUMMARY**	While the listing rules require rights issues to have a mandatory renunciation, nothing in the listing rules or Companies Act requires shares to be allotted in proportion to the number already held.	

		3.6	3.6 LETTER OF ALLOTMENT, FORM OF ACCEPTANCE AND REGISTRATION AND FORM OF RENUNCIATION. a. In the case of bonus issues of shares the entity may decide to allot the shares to the existing shareholders and to dispense with the renunciation facility if sanctioned by an ordinary resolution passed at a general meeting of the members of the entity. In the case of rights issues of shares the renunciation facility is a mandatory requirement.	**Listing Rules of the Colombo Stock Exchange**
Percentage share capital to call an ESM <10%	**10%**	**SUMMARY**	Shareholders holding not less than ten percent of the paid up capital carrying voting rights can call an ESM.	
		Article 128	(1)The directors of the company, notwithstanding anything in its articles, shall, on requisition of members of the company holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up capital of the company as at the date of the deposit carries the right of voting at general meetings of the company ... forthwith proceed duly to convene an extraordinary general meeting of the company.	**Companies Act of 1982**
Mandatory dividend	**0**	**SUMMARY**	There is no reference in the Companies Act or listing rules to a mandatory dividend.	

Sri Lanka – Creditor Rights

Right		Relevant Article	Detail	Law
Restrictions on going into reorganisation	**1**	**SUMMARY**	A reorganisation has to be approved by a majority in number representing three quarters in value of the creditors present and voting at a meeting of creditors and, if sanctioned by court, is binding on other creditors.	
		Article 206	(1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them or between the company and its members or any class of them, the court may, on the application of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such a manner as the court directs, for the purpose of sanctioning such a compromise or arrangement. (2) Where a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present and voting either in person or by proxy at the meeting, agree to any compromise, or arrangement, the compromise or arrangement shall, if sanctioned by the Court, be binding on all the creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the company, or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.	**Companies Act 1982**
No automatic stay on assets	**1**	**SUMMARY**	There is no such law in the arrangements and reconstruction section (Acts 206-209), although Mr. G G D de Silva, a legal consultant at the Central Bank of Sri Lanka, said that the court may make such orders as may be necessary to ensure that the reorganisation is fully and effectively carried out.	
Secured creditors first (paid)	**0**	**SUMMARY**	Priority is given for taxes due and wages and salaries of employees.	
		Article 347	Companies Act 347 (1) In a winding up there shall be paid in priority to other debts - (a) income tax charged or chargeable for one complete year prior to the relevant date ... (b) business turnover tax ... (c) all rates, or taxes (other than income tax)	**Companies Act 1982**

Management replaced (in reorganisation)	**0**	**SUMMARY**	The articles applicable to arrangements and reconstructions (acts 206 to 209) do not call for a change in the management of a company.	
Legal reserve required as a % of capital	**0**	**SUMMARY**	There is no reference in the laws to a legal reserve requirement.	

Taiwan – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Provisions for shareholder rights in Taiwan are found in the Company Law 1929, Amended on November 12, 2001.	
One share-one vote	**1**	**SUMMARY**	The Company Law requires that a company provides shareholders with one share one vote, except those holding preferred shares (Article 179). Different types of shares are allowed, as provided by Article 156.	
		Article 179	I. Except in the circumstances set forth in Item 3, Article 157 hereof, a shareholder shall have one voting power in respect of each share in his/her possession. II. A company shall have no voting power in respect of the share issued by itself and in its own possession in accordance with this Law.	**Company Law 1929, Amended on November 12, 2001**
		Article 157	Where a company is to issue preferred shares, it shall include in its articles of incorporation provisions concerning: I. The order, fixed amount or fixed ratio of allocation of dividends and bonus on preferred shares. II. The order, fixed amount or fixed ratio of allocation of residual assets of the company. III. The order of, or restriction on, or non-voting right on the exercise of voting power by preferred shareholders. IV. Other matters concerning rights and obligations of preferred shares.	
		Article 156	I. The capital of a company limited by shares shall be divided into shares, and each share shall have the same par value. A portion of the shares may be designated as special shares, with the kind of such special shares to be specified in the articles of incorporation.	
Proxy by mail	**0**	**SUMMARY**	Shareholders may vote in person or by proxy (Article 177, Company Law). Taiwan's Securities and Futures Commission and Ministry of Finance also promulgated "Rules Governing the Use of Proxies for Attendance at Shareholder Meetings of Public Companies" on 1 February 2002. The Rules were further amended on 15 May 2003. However, there is no provision in the law to allow proxy voting by mail. It is noted that Taiwanese government is currently considering amending the Company Law to allow proxy by mail and email/internet.	

		Article 177	I. A shareholder may appoint a proxy to attend a shareholders meeting in his/her/its behalf by executing a power of attorney printed by the company stating therein the scope of power authorized to the proxy. II. Except for trust enterprises or stock agencies approved by the competent authority, when a person acts as the proxy for two or more shareholders, the number of voting power represented by him/her shall not exceed 3% of the total number of voting shares of the company, otherwise, the portion of excessive voting power shall not be counted. III. A shareholder may only execute one power of attorney and appoint one proxy only, and shall serve such written proxy to the company no later than 5 days prior to the meeting date of the shareholders meeting. In case two or more written proxies are received from one shareholder, the first one received by the company shall be prevail; unless an explicit statement to supersede the previous written proxy is made in the proxy which comes the later.	**Company Law 1929, Amended on November 12, 2001**
Shares not blocked before meeting	**1**	**SUMMARY**	The Company Law requires a shareholder holding bearer share certificates to deposit his share certificates before he exercises his rights (Article 176). However, there is no such requirement for registered shares.	
		Article 176	A holder of bearer share certificates shall not attend a meeting of shareholders unless he shall have deposited his share certificates with the company five days before the meeting.	**Company Law 1929, Amended on November 12, 2001**
Cumulative voting/Proportional Representation	**1**	**SUMMARY**	The Company Law provides shareholders with rights of cumulative voting for directors. Note however that a company may add a provision in its articles of incorporation to exclude it (Article 198).	
		Article 198	I. Subject to the provisions otherwise provided for in the articles of incorporation, in the process of electing directors at a shareholders meeting, the number of votes exercisable in respect of one share shall be the same as the number of directors to be elected, and the total number of votes per share may be consolidated for election of one candidate or may be split for election of two or more candidates. A candidate to whom the ballots cast represent a prevailing number of votes shall be deemed a director-elect. II. The provision of Article 178 hereof shall not apply to the voting power referred to in the preceding Paragraph.	**Company Law 1929, Amended on November 12, 2001**

		Article 178	A shareholder who has a personal interest in the matter under discussion at a meeting, which may impair the interest of the company, shall not vote nor exercise the voting right on behalf of another shareholder.	
Oppressed minorities mechanism - Judicial venue/Obligatory share repurchase	**1**	**SUMMARY**	Remedies for oppressed minorities are available through either judicial venue or mechanisms of obligatory share repurchase (Articles 185- 191).	
		Article 185	A company shall not do any of the following acts without a resolution adopted by a majority of votes of shareholders present at a shareholders meeting who represent two-thirds or more of the total number of issued shares: …. (major transactions/decisions on the future of the company).	**Company Law 1929, Amended on November 12, 2001**
		Article 186	A shareholder, who has served a notice in writing to the company expressing his intention to object to such an act prior to the adoption of a resolution at a shareholders meeting in accordance with the provisions of the preceding Article, and also has raised his objection at the shareholders meeting may request the company to buy back all of his shares at the then prevailing fair price. However, this shall not apply if at the time of adopting a resolution under Item 2 of Paragraph 1 of the preceding Article, the shareholders meeting also adopts a resolution for dissolution.	
		Article 189	In case the procedure for convening a shareholders meeting or the method of adopting resolutions thereat is contrary to any law, ordinance or the company's articles of incorporation, a shareholder may, within 30 days from the date of adoption of the said resolution, enter a petition to the court for annulment of such resolution. Article 189-1 Upon receipt of the petition for annulment of a resolution filed under the preceding Article, if the court considers that the fact of violation described in the said petition is insignificant and will do nothing to the prejudice of the resolution, the court may dismiss such petition.	
		Article 190	In case a resolution already registered is annulled by irrevocable judgment of a court, the competent authority shall annul the registration upon notice by the court, or upon the application of an interested party.	
		Article 191	The contents of a resolution in a meeting of shareholders in violation of laws or regulations or the articles of incorporation shall be null and void	

Preemptive rights	**1**	**SUMMARY**	The Company Law provides shareholders with preemptive rights. Note that the Law also provides that, when a company issues new shares, there shall be ten to fifteen percent of such new shares reserved for subscription by employees of the company (Article 267).	
		Article 267	I. Unless otherwise approved specifically by the central authority in charge of the object enterprise, when a company issues new shares, there shall be ten to fifteen per cent of such new shares reserved for subscription by employees of the company. II. When a government operated enterprise issues new shares, it may, after obtaining the special approval from the competent authority in charge of the said enterprise, reserve no more than ten per cent of such new shares for subscription by its employees. III. In issuing new shares, a company shall make public announcement and advise, by notice, its original shareholders to subscribe for, with preemptive right, the new shares, except those reserved under either of the preceding two paragraphs, in proportion respectively to their original shareholding and shall state in the notice that if any shareholder fails to subscribe for new shares, his right shall be forfeited.	**Company Law 1929, Amended on November 12, 2001**
Percentage share capital to call an ESM <10%	**3%**	**SUMMARY**	The Company Law provides that a shareholder (or shareholders) who hold more than three percent of the total outstanding shares for a period of one year or longer, may demand the convocation of a special meeting of shareholders (Article 173).	
		Article 173	I. Any or a plural number of shareholder(s) of a company who has (have) continuously held more than three percent of the total number of outstanding shares for a period of one year or a longer time may, by filing a written proposal setting forth therein the subjects for discussion and the reasons, request the board of directors to call a special meeting of shareholders.	**Company Law 1929, Amended on November 12, 2001**
Mandatory dividend	**0**	**SUMMARY**	There is no specific requirement for mandatory dividend in the laws of Taiwan.	

Taiwan – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The Company Law (Section X Reorganization of a Company) provides a formal rescue mechanism for companies in financial difficulty via Court Reorganisation. This mechanism is available only to companies that publicly issue shares or corporate bonds (Article 282). The Bankruptcy Law amended 1993, states procedures for composition or bankruptcy. In compiling the following table of creditor rights during reorganisation, we have elected to refer to the Company Law Section X, as these provisions are relevant to listed companies.	**c.f. ADB Report on Restructuring in Asia** **http://www.adb.org/Documents/Reports/Restructuring_Asia/Taipei.pdf**
Restrictions on going into reorganisation	**1**	**SUMMARY**	Court Reorganisation may be applied for by the following (Article 282): * The debtor's board of directors. * Shareholders holding ten percent or more of the debtor's shares and have held such shares for at least six months. * Creditors whose have claims equivalent to at least ten percent or more of the capital from the total number of shares issued. Interested parties are divided into three groups: secured creditors, unsecured creditors and shareholders (Article 298). The reorganisation plan must be approved by simple majority vote within each group of "concerned persons" with the qualification that if the debtor has negative net worth, the shareholders lose their right to vote on the plan (Article 302).	
		Article 282	I. Where a company which publicly issues shares or corporate bonds suspends its business due to financial difficulty or there is an apprehension of suspension of business thereof, but there is a possibility for the company to be constructed or rehabilitated, the company or any of the following interested parties may apply to the court for reorganization: 1).Shareholders who have been continuously holding shares representing ten per cent or more of the total number of issued shares for a period of six months or longer; or 2).Creditors of the company who have claims equivalent to ten per cent or more of the capital from the total number of issued shares. II. For filing the reorganization application by a company under the preceding Paragraph, the Board of Directors of the company shall adopt a resolution by a majority vote of the directors present at a meeting of the Board of Directors attended by over two-thirds of all directors.	**Company Law 1929, Amended on November 12, 2001**

		Article 298	The reorganizing supervisor shall, ..., prepare lists of preferred creditors in reorganization, secured creditors in reorganization, unsecured creditors in reorganization, and shareholders respectively, stating therein the nature of their rights, ..., and publicly announce the date and place of such keeping so that the creditors in reorganization, shareholders, and other interested persons may inspect, ... The number of votes of creditors in reorganization shall be determined in proportion to the amounts of money involved in their credits. The number of votes of shareholders shall be that provided in the articles of incorporation.	
		Article 302	At the meeting of concerned persons, the voting right shall be exercised in groups of claimants as provided in Paragraph 1 of Article 298, and resolutions shall be adopted by a majority vote of over one-half of the aggregate votes of different groups; however, decision on the reorganization plan shall be made by a majority of at least two-thirds of the aggregate votes of different groups. In the event that there is no net value of capital of the company, the shareholders group shall not exercise voting right.	
No automatic stay on assets	**0**	**SUMMARY**	If the court approves reorganisation, there is a stay on the debtor's assets and the rights of creditors (including secured ones) can not be exercised unless in accordance with reorganisation procedures (Article 296).	
		Article 294	After a ruling for reorganization is rendered, all procedures of bankruptcy, settlement, compulsory execution and other litigation involving property shall be suspended.	**Company Law 1929, Amended on November 12, 2001**
		Article 296	All rights of creditors of the company established prior to the ruling for reorganization shall be rights of creditors in reorganization; all rights with preference for repayment according to law shall be preferred rights of creditors in reorganization; all rights secured by mortgages, pledges or rights of retention shall be secured rights of creditors in reorganization; and all rights without such security shall be rights of creditors without security. All such rights of creditors shall all not be exercised unless in accordance with reorganization procedures. The provisions of the Bankruptcy Law relating to the rights of creditors in bankruptcy, with the exception of provisions governing right of discrimination, and preferential rights shall apply mutatis mutandis to the aforesaid rights of creditors.	
Secured creditors first (paid)	**1**	**SUMMARY**	Secured creditors have "exclusion rights" and can exercise their rights without complying with the bankruptcy procedure and are entitled to priority payment.	

		Article 108	A person who has a pledge, a mortgage or a lien on the properties of the debtor prior to the adjudication of bankruptcy shall have the right of exclusion in respect of such properties. Creditors who have the right of exclusion can exercise their right without complying with the bankruptcy procedure.	**Bankruptcy Law 1935, amended 1993**
		Article 109	Creditors having rights of exclusion may take the obligatory claims remaining unpaid after exercising the right of exclusion as the obligatory claims provable in bankruptcy and exercise their right.	
		Article 112	Obligatory claims entitled to priority in the properties of the bankrupt's estate shall be repaid in advance of other obligatory claims. Where several preferred obligatory claims are of the same priority order, repayments shall be made in proportion to the amounts of each obligatory claims.	
		Article 328	The liquidator shall not effect performance in favor of any of the creditors during the period fixed for declaring their rights of claims as provided in the preceding Article, unless the obligation is a secured one and approval has been obtained from the court for repayment.	
Management replaced (in reorganisation)	**1**	**SUMMARY**	According to the Company Law (Articles 289, 290 and 293), if the court approves reorganisation, it will appoint a reorganiser who has powers similar to a receiver/trustee in other jurisdictions and a reorganisation supervisor who has certain oversight powers/responsibilities with respect to the activities of the reorganiser. The reorganiser is mandated by the court to manage the operation of the business of the debtor, register debts, formulate a plan and obtain approval for it.	
		Article 293	After delivery of the ruling for reorganization of the company, the operation of the business of the company and the power of controlling and disposing of the property thereof shall be transferred to the reorganizers, and the reorganizing supervisor shall supervise such transfer, which shall then be reported to the court. Upon such transfer, the shareholders meeting, directors and supervisors shall cease to perform their duties and to exercise their powers.	**Company Law 1929, Amended on November 12, 2001**
		Article 289	I. At the time of ruling for reorganizers, the court shall select and appoint a person with specialized knowledge and experience in the operation of the business of such company or a banking institution as reorganizers supervisor and decide on the following matters:	

		Article 290	I. The reorganizers of the company shall be selected and appointed by the court from among the relevant experts recommended by creditors, shareholders, directors, the central authority in charge of the relevant end enterprise, and/or the authority in charge of securities affairs. II. In the meeting of interested parties, if the result of the voting conducted in groups under Article 302 shows that two or more groups prefer a change of reorganizers, a list of candidates may be submitted to the court along with an application for such change. III. In case there is a plural number of reorganizers, execution of all matters relating to reorganization shall be effected by a majority vote of them. IV. In the execution of duties, the reorganizers shall secure the prior consent of the reorganization supervisor.	
Legal reserve required as a % of capital	**100%**	**SUMMARY**	The Company Law provides for a legal reserve of one hundred percent of a company's authorized capital (Article 237).	
		Article 237	A company, when allocating its surplus profits after having paid all taxes and dues, shall first set aside ten percent of said profits as legal reserve. Where such legal reserve amounts to the total authorized capital, this provision shall not apply. Aside from the aforesaid legal reserve, the company may, under its articles of incorporation or by resolution of the meeting of shareholders, set aside another sum as special reserve.	**Company Law 1929, Amended on November 12, 2001**

Thailand – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Thai corporate laws (primarily comprising of the Public Limited Company Act B.E. 2535 and the Civil and Commercial Code) provide the shareholders with certain rights generally common to many jurisdictions. For example, the shareholders are entitled to attend and exercise their voting rights in the shareholder meeting, to participate in the company earnings and liquidation, and to examine and obtain certain corporate information or documents. They are entitled to bring both derivative and direct suits against the directors causing damages to the company. Relevant legislation/regulations: (1) The Public Limited Company Act B.E. 2535. (2) The Civil and Commercial Code; and (3) The Securities and Exchange Act B.E. 2535 (false disclosure if the securities offered for sale are stocks)	**c.f. ADB Asia Economic Monitor July 2002**
One share-one vote	**1**	**SUMMARY**	Generally, voting entitlements of the common shares of the company (both limited company and public limited company) are specified as one vote for one share. Certain exemptions are, however, provided as follows: Voting entitlement of the preferred shares of the public limited company may be less than that of common shares (less than one vote in effect); Voting entitlement of the shareholders of the limited company shall be one vote for one person by raising their hands.	
		Section 33	Section 33 (para 4). In voting, the share subscribers shall have votes according to the number of shares respectively subscribed by each of them. One share is entitled to one vote.	**Public Limited Company Act (PLCA) 1992**
Proxy by mail	**0**	**SUMMARY**	Proxy voting is allowed but this has to be in person (Section 34). No reference to proxy voting by mail is found in the law.	

		Section 34	In a meeting of share subscribers, the share subscribers may appoint any other person who is *sui juris* as proxy to attend the meeting and vote on his behalf. The appointment shall be made in writing and signed by the principal, and it shall be submitted to the person designated by the promoters at the place of the meeting before the proxy attends the meeting.	**Public Limited Company Act (PLCA) 1992**
Shares not blocked before meeting	**1**	**SUMMARY**	There is no requirement for shareholders to deposit shares before a general meeting.	
Cumulative voting/Proportional Representation	**1**	**SUMMARY**	Cumulative voting is statutorily provided for the election of the directors of the public limited company, where each shareholder's voting entitlement is equal to the number of shares held multiplied by the number of proposed directors and may be allotted to one or several directors. The articles of association of the public limited company may, however, specify otherwise. As for the limited company, the Civil and Commercial Code does not state any provision relating to cumulative voting. Since it states that each shareholder will have one vote (by raising hands) or one vote for one share (by ballots), cumulative voting is impossible for the limited company.	
		Section 70	Unless otherwise prescribed by the company in the articles of association, the directors shall be elected at the meeting of shareholders in accordance with the following rules and methods: (1) each shareholder shall have votes equal to the number of shares held multiplied by the number of the directors to be elected; (2) each shareholder may exercise all the votes he has under (1) to elect one or several persons as directors. In the event of electing several persons as directors, he may allot his votes to any such person at any number; (3)... In case the articles of association of the company otherwise prescribe the procedures for election of directors, such articles of association shall NOT prejudice the shareholders' right in voting for election of directors.	**Public Limited Company Act (PLCA) 1992**

Oppressed minorities mechanism - Judicial venue/Obligatory share repurchase	**1**	**SUMMARY**	Section 85 of the PLCA 1992 provides judicial venue for minority shareholders to challenge the act of directors. In the event a director performed any act or refrained from performing any act which is a failure to comply with the laws, objectives and the articles of association as well as the resolutions of the shareholders meeting, any one or several shareholders who jointly hold shares at not less than five percent of the total number of shares sold, may: (1) claim compensation by writing to the company or by requesting court action, if damages have occurred due to such act, or (2) request the court to stop such act, if such act is likely to cause damages to the company. With respect to a decision of an assembly of a public limited company, any shareholder in aggregated amounts of not less than 20% of the total number of share sold is entitled to file a motion with the court for the revocation of the shareholder's resolution obtained in violation of or in contravention to the provisions of law, or the company's article of associations. In case of the limited company, any shareholder is entitled to the aforesaid undertaking.	
		Section 85	In carrying on the business of the company, the directors shall do so according to laws, objectives and the articles of association of the company as well as the resolutions of the shareholders meeting and in good faith and with care to preserve the interest of the company. In the event a director performed any act or refrained from performing any act which is a failure to comply with the first paragraph, the company or the shareholders, whichever the case may be, may proceed as follows: (1) If such act or such refraining from performing any act has caused damages to the company, the company may claim compensation from such director. If the company fails to make such claim, any one or several shareholders who jointly hold shares at not less than 5% of the total number of shares sold may demand the company in writing to make such claim. If the company fails to take actions as demanded by the shareholders, such shareholders may request for court action to claim compensation on behalf of the company. (2) if such act or such refraining from performing any act is likely to cause damages to the company, any one or several shareholders who jointly hold shares at not less than 5% of the total number of shares sold may request the court to stop such act.	**Public Limited Company Act (PLCA) 1992**
Preemptive rights	**0**	**SUMMARY**	Newly issued stocks must only be offered first to the existing shareholders, proportionally to their holdings, in the case of the limited company, whereby the shareholder resolution cannot provide otherwise. For the public limited company, however, the statute is silent as to the shareholders' preemptive right; accordingly, the newly issued stocks can be offered to any person upon the approval of the shareholders.	

		Section 137	The additional shares under Section 136 may be offered for sales in whole or in part and may be offered for sales to the shareholders in proportion to the number of shares respectively held by them previously OR may be offered for sale to the public or other persons either in whole or in part provided that it is made in accordance with the resolution of the meeting of shareholders.	**Public Limited Company Act (PLCA) 1992**
		Summary of Section 136	: The company may increase its capital from the amount registered by issuing new shares. This can only be done after the meeting of shareholders has passed a resolution by not less than three-fourths of the total number of votes of the shareholders attending the meeting and having the right to vote; and registration with the Registrar within fourteen days from the date it passed by the meeting.	
Percentage share capital to call an ESM <10%	**20% or 10% (with 25+ shareholders)**	**SUMMARY**	According to Section 100 of PLCA 1992, the percentage share capital to call an ESM is either: (a) not less than twenty percent of the total number of shares sold; or; (b) not less than twenty-five shareholders holding shares altogether not less than ten percent of the total number of shares sold.	
		Section 100	The shareholders holding shares altogether at not less than one-fifth of the total number of shares sold or the shareholders of a number of not less than twenty-five persons holding shares altogether at not less than one-tenth of the total number of shares sold may submit their names in a letter requesting the board of directors to summon an extraordinary meeting of shareholders at any time but they shall give reasons for such request in the said letter. In such case, the board of directors shall arrange for the meeting of shareholders to be held within one month from the date of receipt of such letter of request from the shareholders.	**Public Limited Company Act (PLCA) 1992**
Mandatory dividend	**0**	**SUMMARY**	The statutes do not impose any obligation for the company to distribute the dividend, but the dividend payment has to comply with certain requirements (for instance, it has to be paid only from the company's profit). In addition, the dividend payment, if not the interim payment, has to be approved by shareholders.	

Thailand – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			After the Asian financial crisis, Thailand introduced a number of legislative reforms to its insolvency laws and practice, for example: (1) enacting a new corporate reorganisation procedure in April 1998; establishing a specialised Bankruptcy Court in June 1999; and, by amendments in 1999, enhancing the efficiency of the bankruptcy and reorganisation procedures; (2) implementing binding frameworks for out of court workouts, which were agreed between a number of financial institution creditors under the auspices of the Corporate Debt Restructuring Advisory Committee, a committee established by the Bank of Thailand and various associations; (3) establishing the Financial Sector Restructuring Authority (FRA) to take over the operations of 58 finance companies that were suspended, etc. Creditor rights during reorganisation and bankruptcy are provided in the Bankruptcy Act. It is noted that the Bankruptcy Act (No.5) B.E 2542 (1999) was further amended (No. 6) in 2003 - but this was of very limited effect. It removed the third paragraph of s.139 (the effect being that the official receiver is no longer deemed an official of the court).	
Restrictions on going into reorganisation	**1**	**SUMMARY**	There are restrictions on going into reorganisation. Firstly, reorganisation procedures impose some restrictions to file for reorganisation. For example, there is a threshold of amount of indebtedness: if the insolvent debtor is indebted in an amount not less than 10 million baht (Section 90/3), the debtor can file; a creditor or creditors who have claims in the aggregate amount of not less than ten million baht can file; if the debtor is a commercial bank, a finance company or a credit foncier company, it needs to obtain the written approval of the Bank of Thailand before filing for reorganisation, etc. (Section 90/4). More importantly, the reorganisation plan submitted by the reorganiser needs to be approved by the creditors' meeting by not less than fifty percent of the total amount of claims of the creditors who attend the meetings (Section 90/46).	

		SECTION 90/46	The resolution accepting the plan shall be a special resolution of: (1) the meeting of each and every class of creditors; or (2) the meeting of, at least, a class of creditors that is not the class under Section 90/46 bis, and the aggregate amount of claims of creditors who cast vote for the plan in the meetings of every class, is not less than fifty per cent of the total amount of claims of the creditors who attend the meetings, either in person or by proxy, and also cast vote in the resolution. In calculating the amount of claims, the creditors under Section 90/46 bis (creditor who receives a proposal from the Planner to be repaid in full amount, ...) shall be deemed to attend the meeting and cast their votes in the resolution for acceptance of the plan.	**The Bankruptcy Act B.E.2483 (1940), amended by Bankruptcy Act (No. 5) B.E. 2542 (1999)**
No automatic stay on assets	**0**	**SUMMARY**	From the date on which the court accepts a petition (for reorganisation) for its consideration until the petition is dismissed or revokes or the reorganisation plan is lapsed or completed, debtors enjoy an automatic stay on the assets. Creditors may object to the restrictions, but it is the Court which has the final say.	
		Section 90/12	Subject to Sections 90/13 and 90/14, as from the date on which the court accepts a petition for its consideration until the date on which the period for carrying out a plan lapses, a plan is completed, or the court dismisses the petition, or discards the case, or revokes a reorganization order, or cancels a reorganization process or the final order for control of the estate, under the provision in this Chapter: .... (6) A secured creditor may not enforce his claim against the collateral, unless the court accepting the petition permits to do so; (7) A creditor whom the law allows to enforce a claim by himself may not seize or sell property of the debtor; ..... Notes: Section 90/13: "appeal by secured creditors if not adequate protection are provided in the reorganization plan" and Section 90/14: "definition of adequate protection for secured creditors".	**The Bankruptcy Act B.E.2483 (1940), amended by Bankruptcy Act (No. 5) B.E. 2542 (1999)**

Secured creditors first (paid)	**1**	**SUMMARY**	A secured creditor is entitled to retain his rights against the collateral and to enforce his rights, if the collateral is given by the debtor prior to the order for control of estate (section 95). However, a secured creditor may agree to surrender the collateral for the benefit of all creditors (Section 96), in which case he may claim for the full amount of the debt by filling a claim for payment of the debt. In this case, the order of payment is according to Section 130 where receiver's fees and expenses, court fees and government tax and duty which have become due for payment within the six month period prior to the order for control of the estate, wages of employees ranked higher than creditors in the distribution of bankrupt property.	
		Section 95	SECTION 95 A secured creditor shall retain rights against the collateral given by the debtor prior to the order for control of estate, and need not file a claim for payment of the debt, but shall allow the official receiver to inspect such property.	**The Bankruptcy Act B.E.2483 (1940), amended by Bankruptcy Act (No. 5) B.E. 2542 (1999)**
		Section 96	SECTION 96 A secured creditor may file a claim for payment of the debt on the following conditions: (1) If he agrees to surrender the collateral for the benefit of all creditors, he may claim for the full amount of the debt; (2) If he has already enforced his claim against the collateral, he may claim for the balance of the debt; (3) If he has asked the official receiver to auction the collateral, he may claim for the balance of the debt;	
		Section 130	In the course of distribution of property amongst creditors, the expenses and debts shall be paid in the following order and manner: (1) Expenses for administration of a debtor's inheritance; (2) Expenses of the official receiver in managing the debtor's estate; (3) Funeral expenses of a deceased debtor in an amount suitable to his stature; (4) Court fees in collecting property under Section 179(3); (5) Court fees of the petitioning creditor, and attorney fee as the court or the official receiver may prescribe; (6) Tax and duty which have become due for payment within the six month period prior to the order for control of the estate, and wages for which an employee is entitled to receive under Section 257 of the Civil and Commercial Code and under the law on worker protection, prior to the order for control of the estate, in exchange of the works that such employee did for the debtor who was his employer; (7) Other debts. If the proceeds are insufficient to pay in full the debt in any series, the proceeds shall be proportionately distributed to the creditors in such series.	

		Section 130 bis	SECTION 130 bis [Added by the Bankruptcy Act (No. 5) B.E. 2542 (1999)] In case of a debt under Section 130 (7) of which, by law or contract, the creditor is entitled to receive payment only when all other creditors have received payment in full, such creditor shall still be entitled to receive his share for the distributed property, according to his rights provided in the law or contract.	
Management replaced (in reorganisation)	**1**	**SUMMARY**	The incumbent management will not formally be replaced during the reorganisation, but is no longer entitled to manage the business and assets of the debtor upon the court's order of business reorganisation (approving the business reorganisation). If a Planner (defined in Section 90/1 as: a person who prepares a reorganisation plan) is not selected, the management is replaced by an interim manager appointed by the court - Section 90/20. The Planner is appointed by the court. Upon the appointment, the Planner takes over the power and duties in managing business operation and property of the debtor and the rights of Shareholders of the Debtor under the laws, except for the right to receive dividend (SECTION 90/25).	
		Section 90/20	In case the court has granted a reorganization order but has not appointed a Planner, the authority of the Debtor's Manager to manage business operations and property of the debtor shall cease. The court shall appoint a person or persons or the Debtor's Manager to be the Interim Manager having the authority to manage business operations and property of the debtor under supervision of the official receiver until a Planner is appointed. During the time when an Interim Manager has not been appointed, the official receiver shall have the authority to temporarily manage business operation and property of the debtor.	**The Bankruptcy Act B.E.2483 (1940), amended by Bankruptcy Act (No. 5) B.E. 2542 (1999)**
		Section 90/25	Subject to Sections 90/42 and 90/64, when the court grants an order appointing the Planner, the power and duties in managing business operation and property of the debtor and the rights of Shareholders of the Debtor under the laws, except for the right to receive dividend, shall be conveyed to the Planner.	
Legal reserve required as a % of capital	**10%**	**SUMMARY**	Section 116 of the PLCA 1992 requires that a company should allocate not less than five percent of its annual net profit to its reserve fund, until the reserve fund reaches an amount of not less than ten percent of the registered capital.	
		Section 116	The company shall allocate to a reserve fund from the annual net profit, not less than five percent of the annual net profit deducted by the total accumulated losses brought forward (if any) until the reserve fund reaches an amount of not less than ten percent of the registered capital, unless where the company's articles of association or other law prescribes for a higher amount of such reserve.	**Public Limited Company Act (PLCA) 1992**

Turkey – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The relevant laws are the Turkish Commercial Code and the Capital Markets Law. Public joint stock companies are subject to the Capital Markets Law, non-public companies are subject to the Turkish Commercial Code. Source: feedback was received from Mr Ali Kartal, Aybay & Aybay Law Firm, Istanbul.	
One share -one vote	**0**	**SUMMARY**	It is possible to issue shares with more than one vote or no vote at all, provided this is stipulated in the articles of association.	
		Section 14/A	Restrictions may be placed by the Capital Markets Board. Presently, all companies can issue non-voting shares up to 75% of the paid up or issued capital stock.	**Capital Markets Law**
Proxy by Mail allowed	**0**	**SUMMARY**	The laws do not allow for proxy by mail.	
		Section 360	[...] Every shareholder entitled to vote may exercise this right at the sessions of the general meeting either personally or though a third person who is also a shareholder or, in the absence of any clause to the contrary in the articles of association, is not a shareholder.	**Turkish Commercial Code, Capital Markets Law**
Shares not blocked before meeting	**1**	**SUMMARY**	No blocking rules are in place for registered shares.	
		Section 360	Shareholders shall exercise their rights in connection with the company's business such as the appointment of officials, the approval of accounts and the distribution of profits, at the sessions of the general meeting.	**Turkish Commercial Code**
Cumulative voting/ proportional representation	**0**	**SUMMARY**	Proportional representation through cumulative voting is allowed in public companies, not allowed in private companies.	**Turkish Commercial Code, Capital Markets Law**

Oppressed Minorities (Judicial Venue/ Obligatory Share Repurchase)	**1**	**SUMMARY**	Any shareholder is entitled to challenge managerial decisions if they violate the law or articles of association. In addition, individual managers can be held responsible for their actions.	
		Article 381	The persons indicated below may apply to the court of the locality where the head office of the company is situated and open an action for the cancellation of the resolution of the general meeting which are contrary to the provisions of the law and of the articles of association and particularly to the rules of objective good faith, within three months after the date of the said resolutions: 1. Shareholders present at the meeting who, being opposed to the resolution, have caused the matter to be included in the minutes or who have been illicitly deprived from exercising their voting right or who claim that calls for the meeting have not been regularly made or that the agenda has not been regularly advertised or communicated or that persons not entitled to take part in the general meeting have taken part in the resolutions; 2. The board of directors; 3. Every director or auditor, if the execution of the resolution entails his personal responsibility; The board of directors shall duly advertise the opening on an action for cancellation and the date of the hearing. The action may not be heard before the expiration of the period of forfeit of three months mentioned in the first paragraph. If more than one action have been opened they will be united. The court may, on application by the company, require from the plaintiffs a guarantee for the eventual losses of the company. The court shall determine the kind and amount of this guarantee.	**Turkish Commercial Code**
		Section 12	The Board of Directors, auditors or shareholders whose rights are violated may file a case for cancellation against the resolution taken by the Board of Directors [...]	**Capital Market Law**
		Section 46	Following the supervision, examination and auditing made in accordance with this Law, the Board is authorized; b) To file a case for cancellation against the decisions taken in accordance with the principles of Article 12 by the Board of Directors within 30 days beginning from the announcement of these resolutions, at the trade court in the local area where the headquarter of corporation is located, and to demand to defer the execution of these resolutions [...]	

Preemptive right to new issues	**1**	**SUMMARY**	Each shareholder is entitled to purchase newly issued shares in proportion to their existing holding. The provisions of the Articles of Association set forth conditions for the use of pre-emption rights. The resolution of the General Meeting concerning the increase of the capital may suspend these rights, provided that the resolution does not infringe the principles of equal treatment of shareholders. In the registered capital system, the board of directors may restrict preemptive rights if it is set forth in the articles of the Association.	
		Section 394	In the absence of any clause to the contrary in the resolution of the general meeting concerning the increase of the basic capital, any shareholder is entitled to a number of new shares in proportion to his interest in the capital of the company. The board of directors shall advertise in the newspapers the price of issue of the shares to be attributed to shareholders. Publications made to this effect shall indicate the term, of not less than fifteen days, during which shareholders may exercise their right of subscribing for new shares. Capital Market Law, Section 12: The Board of Directors must be authorized by the Articles of Incorporation in order to pass a resolution to issue preferential shares or, shares with a premium over their nominal value, to limit the shareholders' rights for obtaining new shares and to restrict the rights of the holders of preferential shares.	**Turkish Commercial Code**
% of share capital to call an ESM	**10%**	**SUMMARY**	Shareholders representing at least ten percent of the company's capital can call an ESM.	
		Section 366	On the written and justified requisition of shareholders representing at least one tenth of the company's capital, the board of directors shall convene the shareholders to an extraordinary general meeting or if the holding of a general meeting were already decided, shall include in the agenda the matters which they wish to discuss. The number of shares required for the exercise of this right may be reduced by the articles of association.	**Turkish Commercial Code**
Mandatory Dividend	**0**	**SUMMARY**	Firms are not required to pay a mandatory dividend to their shareholders. Management can pay dividend if the minimum reserve requirements and articles of association are met. Publicly traded companies, however, must specify the first dividend payment in its statutes.	

		Section 469	No dividend shall be paid until the legal and facultative reserves and other sums which have to be set aside in accordance with the law and the articles of association have been set aside on the net profits. Should it be deemed convenient and useful from the point of view of the continuous development of the company or the distribution of dividends as stable as possible, the general meeting may, when fixing the dividend, decide to set aside reserves other than those provided by the law and the articles of association and to increase the rate of the services fixed by the law and the articles of association. Even if the articles of association contain no provision to this effect the general meeting may set aside on the net profits allocations for creating and maintaining assistance funds and other assistance organisations for the employees and workers of the company or for other assistance purposes. These allocations shall be ruled by the provisions regarding assistance funds determined by the articles of association.	**Turkish Commercial Code**
		Section 470	No interest may be paid on the basic capital. The dividend may be distributed only out of net profits and reserve funds set aside for this purpose.	
		Section 15	The rate of the first dividend shall be indicated in the Articles of Incorporation of the joint stock corporations whose shares are offered to the public. This rate may not be lower than the amount to be determined by the Board.	**Capital Market Law**

Turkey – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Bankruptcy is governed by the Execution and Bankruptcy Act of 1929, as amended up to 2003. An English translation of this law was not available, but feedback was received from Mr Ali Kartal, Aybay & Aybay Law Firm, Istanbul.	
Restrictions on going into reorganisation	**1**	**SUMMARY**	Reorganisation is possible upon application to the Bankruptcy Court, and requires the consent of half of the creditors representing at least two thirds of the total debt (Art. 285 and 297).	**Execution and Bankruptcy Act of 1929, as amended**
No automatic Stay on Assets	**0**	**SUMMARY**	There is a stay on real estate and fixed assets from the moment the Bankruptcy Court grants reorganisation, but the stay can be lifted for individual transactions by consent of the supervising judge(Art. 290).	**Execution and Bankruptcy Act of 1929, as amended**
Secured creditors first (paid)	**0**	**SUMMARY**	In case of liquidation, customs and property taxes due on liquidated assets take priority over all creditors, including secured creditors (Art. 206)	**Execution and Bankruptcy Act of 1929, as amended**
Management Replaced	**0**	**SUMMARY**	The management stays during reorganisation, although many actions must be approved by a court-appointed Reorganisation Officer. The supervising judge is authorised to remove management in case of management actions in breach of good faith or the reorganisation plan (Art. 290).	**Execution and Bankruptcy Act of 1929, as amended**
Legal Reserve	**33%**	**SUMMARY**	If two thirds of the basic capital is not covered by net assets any more and the required coverage cannot be attained, the company will be dissolved.	

		Section 324	If it is ascertained by the last balance sheet that one half of the basic capital has no counterpart, the board of directors shall meet immediately and inform the general meeting of the situation. If there exist signs leading to suspect the insolvency of the company, the board of directors shall draw up an interim balance sheet by taking as a basis the selling prices of the assets. If two thirds of the basic capital remain without a counterpart and the general meeting does not decide to complete the capital or to be satisfied with the remaining one third of the capital, the company shall be considered as dissolved. If the assets of the company are not sufficient to cover the debts of the creditors of the company, the board of directors shall immediately inform the court. The court will adjudicate the company bankrupt. If it is ascertained, however, that the situation of the company could be improved, the court may stay the adjudication of bankruptcy on application by the board of directors or by a creditor. In this case the court shall take the necessary measures for the conservation of the estate of the company such as the drawing up of an inventory or the appointment of a trustee.	**Turkish Commercial Code**

Venezuela – Shareholder Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			The main laws governing the securities market in Venezuela are the capital markets law of 1998 (Ley de Mercado de Capitales de 1998) and the Commercial Code of 1955 (Codigo de Comercio de 1955). There is no specific company law.	
One share -one vote	**0**	**SUMMARY**	There is no reference to the 'one vote per share' principle in the law. Article 292 makes reference to only two classes of shares: nominative or bearer. Both have the same rights.	
		Artículo 292	Las acciones deben ser de igual valor y dan a sus tenedores iguales derechos, si los estatutos no disponen otra cosa. Las acciones pueden ser nominativas o al portador.	**Codigo de Comercio / 1955**
Proxy by Mail allowed	**0**	**SUMMARY**	There is no reference in the law allowing proxy by mail.	
Shares not blocked before meeting	**0**	**SUMMARY**	In order to have the right to cast a vote on the Assembly, Article 279 requires shareholders to deposit their shares prior to the date scheduled for such meeting.	
		Artículo 279	Todo accionista tiene el derecho de ser convocado a su costa por carta certificada, haciendo elección de domicilio y depositando en la caja de la compañía el número de acciones necesarias para tener un voto en la asamblea.	**Codigo de Comercio / 1955**
Cumulative voting / Proportional representation	**0**	**SUMMARY**	Minority shareholders hold the right to elect a director to the board of directors, but the minimum minority allowed is twenty percent.	
		Artículo 125	En la junta administradora de las sociedades anónimas cuyas acciones fuesen objeto de oferta pública, deberán estar representados los accionistas minoritarios. A tal efecto, cualquier grupo que represente por lo menos un veinte por ciento (20%) del capital suscrito, tendrá derecho a elegir un número proporcional de miembros a la Junta Directiva.	**Ley de Mercado de Capitales**

Oppressed Minorities (Judicial Venue / Obligatory Share Repurchase)	**1**	**SUMMARY**	According to Article 282, shareholders who do not agree with fundamental changes to the company have the right to withdraw from it and to claim the reimbursement of their shares.	
		Artículo 282	Los socios que no convengan en el reintegro o en el aumento del capital, o en el cambio del objeto de la compañía, tienen derecho a separarse de ella, obteniendo el reembolso de sus acciones, en proporción del activo social, según el último balance aprobado. La sociedad puede exigir un plazo hasta de tres meses para el reintegro, dando garantía suficiente. Si el aumento de capital se hiciere por la emisión de nuevas acciones, no hay derecho a la separación de que habla este artículo. Los que hayan concurrido a algunas de las asambleas en que se ha tomado la decisión, deben manifestar, dentro de las veinticuatro horas de la resolución definitiva, que desean el reembolso. Los que no hayan concurrido a la asamblea, deben manifestarlo dentro de quince días de la publicación de lo resuelto.	**Codigo de Comercio / 1955**
Preemptive right to new issues	**0**	**SUMMARY**	The law does not contain any provision that gives preemptive rights to existing shareholders. Articles 33 through 36 refer to the issuance of new shares by the company and to the rights of the shareholders assembly. Neither of these articles mentions the preemptive right of shareholders to purchase new shares.	
		Artículo 33	La asamblea de accionistas podrá delegar a los administradores la facultad de emitir una o más veces obligaciones, debiéndose establecer expresamente en la resolución de asamblea, el monto máximo de obligaciones que podrán emitir los administradores, dentro de los límites que fije al respecto la Comisión Nacional de Valores, así como las modalidades de las mismas. La delegación otorgada por la asamblea a los administradores no podrá tener una duración mayor de dos (2) años.	**Ley de Mercado de Capitales**
		artículo 34	La emisión de obligaciones solamente podrá ser aprobada por una asamblea de accionistas donde esté representado, por lo menos, las tres cuartas partes del capital social. La decisión se tomará con el voto favorable de la mayoría simple de las acciones presentes, salvo que los estatutos exijan un quórum o mayoría superiores.	

		Artículo 35	La sociedad que haya emitido obligaciones, sólo podrá reducir el capital social en proporción a las obligaciones que hubiere reembolsado. Si la reducción es en razón de pérdidas, la sociedad no podrá decretar dividendos hasta tanto las utilidades obtenidas en los ejercicios siguientes sumadas al capital pagado, sean iguales al monto pagado de las obligaciones en circulación, salvo que se trate de una capitalización de las mismas. Alcanzado el monto señalado, podrá decretar dividendos por el excedente. Cualquier otro caso de reducción de capital, de disposición de utilidades no distribuidas o de apartados de utilidades que respalden la emisión, requerirá la previa autorización de la Comisión Nacional de Valores. Las obligaciones podrán ser redimidas por el sistema de sorteos bajo la supervisión de la Comisión Nacional de Valores o por cualquier otro mecanismo previsto en las condiciones de la emisión y en el correspondiente prospecto.	
		Artículo 36	Las obligaciones contendrán un resumen de las características, modalidades y condiciones de emisión establecidas en las normas pertinentes, así como cualquier otra información que la Comisión Nacional de Valores considere necesario incluir. Los títulos representativos de las obligaciones podrán ser emitidos conforme a las modalidades previstas en el artículo 23 de esta Ley.	
% of share capital to call an ESM	**20%**	**SUMMARY**	Shareholders who represent at least twenty percent of shareholder capital can call an "Extraordinary General Meeting".	
		Artículo 278	Los administradores deben convocar extraordinariamente a la asamblea dentro del término de un mes, si lo exige un número de socios que represente un quinto del capital social, con expresión del objeto de la convocatoria.	**Codigo de Comercio / 1955**
Mandatory Dividend	**50%**	**SUMMARY**	According to article 115, a company has the obligation to distribute dividends of at least fifty percent of net proceeds. Article 116 makes an exception to this rule in cases where the amount of net income proves to be under a certain percentage of share capital (to be determined by the Comisión Nacional de Valores -equivalent to the SEC). In this case, incrementing shareholders capital by means of issuing new shares (until reaching the pre-specified percentage), will have priority over the distribution of dividends.	

		Artículo 115	Las sociedades que hagan oferta pública de sus acciones deberán repartir entre sus accionistas no menos del cincuenta por ciento (50%) de las utilidades netas obtenidas en cada ejercicio económico después de apartado el impuesto sobre la renta y deducidas las reservas legales. De este porcentaje, no menos del veinticinco por ciento (25%) deberá ser repartido en efectivo. En caso de que las sociedades tengan déficit acumulado, las utilidades deberán ser destinadas a la compensación de dicho déficit y el excedente de utilidades será repartido de acuerdo a la forma antes establecida. Parágrafo Único Los bancos y otras instituciones financieras y las empresas de seguros y reaseguros están obligadas a cumplir con lo establecido en esta norma, salvo en aquellos casos en que la Superintendencia de Bancos o la Superintendencia de Seguros, según corresponda, determine otra cosa.	**Ley de Mercado de Capitales**
		Artículo 116	Las sociedades que hagan oferta pública de acciones podrán ser eximidas por la Comisión Nacional de Valores de cumplir con lo dispuesto en el artículo anterior, cuando las utilidades obtenidas en el correspondiente ejercicio económico, sean inferiores al porcentaje del capital pagado que determine la Comisión Nacional de Valores; en cuyo caso dichas utilidades deberán ser destinadas a un aumento de capital mediante la emisión de las correspondientes nuevas acciones, hasta satisfacer el porcentaje referido.	

Venezuela – Creditor Rights

Right		Relevant Article	Detail	Law
GENERAL SUMMARY			Winding up or liquidation law applies to companies and is contained under the Commercial Code of 1955 (Código de Comercio de 1955) and the Civil Proceedings code dated 1990 (Código de Procedimiento Civil de 1990). Corporate rescue, i.e. restructuring is contemplated under the commercial code. In Venezuela there is no law exclusively for bankruptcy, corporate restructuring or reorganisation processes. Special laws regulate some institutions and their bankruptcy/reorganisation procedures are contemplated in these (I.e. banks, financial institutions and insurance firms). The Capital Markets law includes Article 10, which specifies that the Comision Nacional de Valores (the stock market regulator) has the power to regulate bankruptcy/reorganisation for companies under its jurisdiction. Articles 82 and 83 relate to these issues in the case of brokerage companies for brokerage companies. Sources: (from Dr Luis Ernesto Andueza G., Despacho de Abogados miembros de Macleod Dixon, S.C.), Venezuelan Government (www.gobiernoenlinea.ve)	
Restrictions on going into reorganisation	**na**	**SUMMARY**	There is no reference in the Commercial Code to a reorganisation procedure.	
No automatic Stay on Assets	**na**	**SUMMARY**	There is no reference in the Commercial Code to a reorganisation procedure.	
Secured creditors first (paid)	**0**	**SUMMARY**	There is no evidence in the law (either in the Commercial Code - Article 995 or in the Civil Code - Articles 798 and 803) giving secured creditors priority in the event of a liquidation of the company.	
		Artículo 995	Todos los créditos contra el fallido, cualquiera que sea su carácter, están sujetos a calificación en el juicio de quiebra.	**Codigo de Comercio**

		Artículo 798	Reunidos los acreedores, el Secretario dará lectura a la solicitud y a las listas de bienes y deudas. Luego informará sobre las disposiciones acordadas por el Tribunal y del resultado de ellas. Los acreedores, por el orden de la lista respectiva, producirán los instrumentos que legitimen sus créditos, y por el mismo orden se les dará lectura por el Secretario. Inmediatamente los interesados podrán revisar dichos instrumentos y, luego, el Juez incitará al deudor, si estuviere presente, y a los acreedores, a que expongan cuanto crean conducente al objeto de la solicitud del primero, y a las tachas y observaciones que tengan que hacer sobre la legitimidad o carácter y graduación de los créditos de los demás acreedores. El Secretario anotará las opiniones del deudor y los acreedores sobre ambos puntos, a medida que se fueren emitiendo. Al fin este mismo funcionario publicará el resultado de la votación, cuáles son los créditos tachados y cuántos votos se han reunido contra cada uno de éstos.	**Código de Procedimiento Civil**
		Artículo 803	Concluida la controversia sobre calificación, los acreedores (...) establecerán el orden de los pagos, según la preferencia de cada crédito. Si no estuvieren todos de acuerdo sobre la graduación de dichos créditos, el Juez la hará dentro de tres días.	
Management Replaced	**na**	**SUMMARY**	There is no reference in the Commercial Code to a reorganisation procedure.	
Legal Reserve	**10%**	**SUMMARY**	Legal reserve amounts to a minimum of ten percent of shareholders capital. In case the shareholders capital diminishes by one third in value, the society will be liquidated, unless shareholders can agree either to increase the share capital or to limit the share funds of the existing capital (Article 264)	
		Artículo 262	Anualmente se separará de los beneficios líquidos una cuota de 5 por 100, por lo menos, para formar un fondo de reserva, hasta que este fondo alcance a lo prescrito en los estatutos, y no podrá ser menos del diez por ciento del capital social. Este fondo de reserva, mientras no ocurra la necesidad de utilizarlo, podrá ser colocado en valores de cómoda realización; pero nunca en acciones u obligaciones de la compañía, ni en propiedades para el uso de ella.	**Código de Comercio**

		Artículo 264	Cuando los administradores reconozcan que el capital social, según el inventario y balance ha disminuido un tercio, deben convocar a los socios para interrogarlos si optan por reintegrar el capital, o limitarlo a la suma que queda, o poner la sociedad en liquidación. Cuando la disminución alcance a los dos tercios del capital, la sociedad se pondrá necesariamente en liquidación, si los accionistas no prefieren reintegrarlo o limitar el fondo social al capital existente.	